Washington, Friday, February 27, 1959

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission
PART 6—EXCEPTIONS FROM THE
COMPETITIVE SERVICE

Department of the Interior

Effective upon publication in the Federal Register, paragraph (a)(21) is added to § 6.310 as set out below.

§ 6.310 Department of the Interior.

(a) Office of the Secretary. * * * (21) Director, Office of Saline Water. (R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

United States Civil Service Commission,
[SEAL] Wm. C. Hull,
Executive Assistant.

[F.R. Doc. 59-1741; Filed, Feb. 26, 1959; 8:52 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 961-MILK IN PHILADELPHIA, PA., MARKETING AREA

Order Amending Order

§ 961.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure govern-

ing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the de-

clared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Additional findings. It is necessary in the public interest to make this order amending the order effective not

later than March 1, 1959.

The provisions of the said order are known to handlers. The recommended decision of the Acting Deputy Administrator of the Agricultural Marketing Service was issued December 12, 1958, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued January 29, 1959. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1959, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in

(Continued on p. 1459)

CONTENTS

Agricultural Marketing Service Proposed rule making:	Page
Milk in the southeastern Flor- ida marketing area Regulations under the Packers	1467
and Stockyards Act Rules and regulations:	1473
Milk in Philadelphia, Pa., mar- keting area; miscellaneous amendments	1457
Agriculture Department See Agricultural Marketing Service; Commodity Stabilization Service.	
Alien Property Office Notices:	
Vested property, intention to return:	
Ciano, Fabrizio, et al Merton, Miss Barbara	1490 1490
Van der Meulen, J. P., and Miss S. Dijk	1490
Army Department See Engineers Corps.	
Atomic Energy Commission Notices: Curators of the University of	
Missouri, School of Mines and Metallurgy; application for utilization facility license	1478
nuclear material license Civil Aeronautics Board	1478
Notices: Accident occurring at Miami, Fla.; hearing	1478
Civil and Defense Mobilization Office Notices:	
Appointee's statement of business interests:	* 400
Powers, Philip NRuttenberg, Stanley	1490 1490
Civil Service Commission Rules and regulations: Interior Department; excep-	
tions from the competitive	1457
Commerce Department See Federal Maritime Board; For- eign Commerce Bureau.	



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(As of January 1, 1959)

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Title (8 (\$0.35) Titles 22-23 (\$0.35) Title 25 (\$0.35) Title 49, Parts 91–164 (\$0.40)

Previously announced: Title 3, 1958 Supp. (\$0.35); Title 46, Parts 146-149, 1958 Supp. 2 (\$1.50)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D.C.

CONTENTS—Continued

COMMISSION	
Commodity Stabilization Service Notices:	Page
Peanuts, Valencia type; supply for 1959–60 marketing year	1475
Defense Department See Engineers Corps.	
Engineers Corps Rules and regulations:	-
Bridge and navigation regula- tions; Willapa Harbor, Wash.; Navigation Locks in Haines Creek, Fla	1461
Federal Communications Communications	
Notices: Hearings, etc.:	
Blumenthal, Stanley	1482

CONTENTS—Continued

CONTENTS—Continued	_	CONTENTS—Continued	
Federal Communications Com-	Page	Indian Affairs Bureau	Page
mission—Continued		Proposed rule making:	
Notices—Continued Hearings, etc.—Continued		Distribution of assets; Califor-	
Brinkley Broadcasting Co	1483	nia rancherias and reserva-	1466
Hirschberg, Sanford L., et al.	1481		1400
Moyer Radio et al	1483	Interior Department	
Tempe Broadcasting Co. et al.	1483	See Fish and Wildlife Service; Indian Affairs Bureau; Land Man-	
Federal Housing Administration Rules and regulations:		agement Bureau.	
Delegations of basic authority		Internal Revenue Service	
and functions; miscellaneous		Proposed rule making:	
amendments	1460	Income tax; taxable years be-	_
Federal Maritime Board Rules and regulations:	٠	ginning after December 31,	
Federal ship mortgage and loan		1951; amounts received by certain motor carriers in set-	
insurance; applications	1464	tlement of claims against the	,
Federal Power Commission		U.S	1465
Notices: Hearings, etc.:		Interstate Commerce Commis-	
Carter Oil Co	1487	sion	-
Champlin Oil & Refining Co	1487	Notices:	
Consolidated Water Power	1486	Fourth section applications for relief	1490
Co El Paso Natural Gas Co	1489	_	1430
Midwest Natural Gas Corp.		Justice Department	
and Texas Eastern Trans-	7.40.4	See Alien Property Office; Immigration and Naturalization	
mission Corp Pacific Power & Light Co	1484 1486	Service.	•
Phillips Petroleum Co	1485	Labor Department	
Rutherford, P. R., et al	1484	See Wage and Hour Division.	•
Slick Oil Corp. et al Southwest Natural Produc-	1489	.	
tion Co. et al	1487	Land Management Bureau	٠.
Sunray Mid-Continent Oil Co.	1484	Notices: Filing of plat of survey and	•
Tennessee Gas Transmission Co. and Algonquin Gas		order providing for opening of	
Transmission Co	1489	public lands; Alaska	1476
Transwestern Pipeline Co.		Proposed withdrawals and res- ervations of lands:	
et al United Fuel Gas Co	1488 ` 1488	Alaska	1475
Fish and Wildlife Service	1400	Colorado (2 documents)	1477
Rules and regulations:		UtahSmall tract classifications:	1476
National wildlife refuges; list of		Arizona	1477
areas (2 documents) 1464,	1465	New Mexico; cancellation	1475
Food and Drug Administration Proposed rule making:	,	Rules and regulations: Public land orders:	
Exemption for certain drugs		Florida (2 documents)	1464
limited by new-drug applica-		New Mexico	1463
tions to prescription sale Rules and regulations:	1474	Panama Canal	,
Tolerances for residues of 2,4-		Rules and regulations:	
Dichloro - 6 - (o - Chloroanili-		Conditions of employment in service of Canal Zone Govern-	
no)-Triazine	1460	ment on Isthmus of Panama:	
Foreign Commerce Bureau - Notices:	•	amendment of leave pro-	,
Pan Maritime Cargo Service.		visions Operation and navigation of	1462
Inc.; order modifying export	,	Pánama Canal and adjacent	
control denial order	1477	waters; vessels at wharves;	
Health, Education, and Welfare		fire watch; gangways	1462
Department See Food and Drug Administra-		Public Health Service	
tion; Public Health Service.		Notices:	1401
Housing and Home Finance		Licensed biological products Pollution of interstate waters of	1481
Agency		Missouri River between Gav-	•
See Federal Housing Administration.	,	ins Point Dam, South Dakota,	
Immigration and Naturaliza-		and Omaha, Nebr.; public hearing	1480
tion Service		Securities and Exchange Com-	
Rules and regulations:	-	mission -	
Documentary requirements:	•	Notices:	
nonimmigrants, waivers, ad-		Hearings, etc.: Bon Ami Co	1479
mission of certain inadmissi- ble aliens, parole; permission		Jacobs, F. L., Co	1479
to reapply	1460,	Science & Nuclear Fund, Inc.	1479
	•	<i>V</i>	

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

month.	
3 CFR	Page
Executive orders:	
1888 (amended by CZO 51)	1462
3480 (revoked by PLO 1803)	1464
6276 (revoked in part by PLO	
1801)	1463
8979 (see F.R. Doc. 59-1710)	1476
5 CFR	
6	1457
7 CFR	
961	1457
Proposed rules:	
1018	1467
8 CFR	
0 CFR	1460
9 CFR	1100
Proposed rules:	1473
	1473
21 CFR	
120 Proposed rules:	1460
130	1474
	1474
24 CFR	
200	1460
25 CFR	
Proposed rules:	
242	1466
26 (1939) CFR	
_	,
Proposed rules:	1465
29 CFR	
	1460
33 CFR	7400
33 CFK	
203	1461
207	1461
35 CFR	
4	1462
Canal Zone orders: 5 (see CZO 51)	1400
17 (see CZO 51)	1462 1462
19 (see CZO 51)	1462
30 (amended by CZO 52)	1462
37 (see CZO 51)	1462
51	1462
52	1462

CODIFICATION GUIDE-Con.

42 CED

40 CFR	T 000
Public land orders:	
1723 (see F.R. Doc. 59-1710)	1476
1801	1463
1802	1464
1803	1464
46 CFR	
298	1464
50 CFR	
17 (2 documents) 1464	, 1465

the Federal Register. (See sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.)

- (c) Determinations. It is hereby determined that:
- (1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing agreement, tends to prevent the effectuation of the declared policy of the Act;
- (2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and
- (3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Philadelphia, Pennsylvania, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 961.10 and substitute therefor the following:

§ 961.10 Producer.

"Producer" means any person, except a producer-handler and a dairy farmer whose milk is received as milk diverted from a nonproducer milk plant, who produces milk which is received directly at a producer milk plant or is diverted in accordance with the provisions of paragraph (a) of this section: Provided, That milk so diverted to another plant (except a plant at which the milk is subject to the classification and pricing provisions of another Federal order) for the account of the diverting handler, shall be deemed to have been received at a producer milk plant at the location of the plant from which diverted.

(a) Diverted by a handler in his capacity as the operator of a producer milk plant: (1) To the producer milk plant of another handler, (2) to a non-producer milk plant on not more than 20 days (10 days in the case of every-other-day delivery) during any month(s) of October through January or (3) to a

nonproducer milk plant during any of the months of February through September: Provided, That no dairy farmer shall qualify as a producer under this subparagraph with respect to milk so diverted unless: (i) He held status as a producer throughout the entire preceding month, or (ii) the greater volume of his milk from the first day of delivery or diversion during the current month, as the case may be, was physically received at a producer milk plant.

2. Delete § 961.12 and substitute therefor the following:

§ 961.12 Producer milk.

"Producer milk" means only that milk (a) received at a producer milk plant directly from producers, not including milk received as diverted milk for another handler's account or (b) diverted by the handler in his capacity as the operator of a producer milk plant, in accordance with the provisions of \$961.10: (1) To a nonproducer milk plant or (2) to the producer milk plant of another handler.

§ 961.30 [Amendment]

- 3. Delete the word "and" following the semicolon at the end of paragraph (d) in § 961.30; substitute a semicolon in place of the period at the end of paragraph (e) and add new paragraphs (f) and (g) to read as follows:
- (f) Milk diverted from a producer milk plant, from the farm on which such milk was produced, to another plant(s); and
- (g) Milk received, directly from the farm on which such milk was produced, as milk diverted from a nonproducer milk plant(s).
- 4. Add a new section immediately following § 961.61 to read as follows:
- § 961.62 Milk received as diverted milk or disposed of by diversion.
- (a) Milk received directly at a producer milk plant as milk diverted from another plant for the account of the operator of such other plant shall be treated as a receipt at the diverting plant and a transfer to the producer milk plant for purposes of determining the diverting handler's status as a producer milk plant pursuant to § 961.7.
- (b) Milk caused by a handler, as the operator of a producer milk plant, to be diverted for his account to another plant under the conditions of § 961.10 shall for purposes of classification, pricing, and payments be considered to have been received by the diverting handler at the plant from which the diversion was made and as transferred to the plant where physically received.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Issued at Washington, D.C., this 24th day of February 1959, to be effective on and after the 1st day of March 1959.

[SEAL] TRUE D. Morse,
Acting Secretary.

[F.R. Doc. 59-1740; Filed, Feb. 26, 1959; 8:52 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I-Immigration and Naturalization Service, Department of Justice

212 - DOCUMENTARY RE-PART QUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CER-TAIN INADMISSABLE ALIENS; **PAROLE**

Permission To Reapply

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER of January 31, 1959 (24 F.R. 714) pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) and in which there was set out in full the terms of the proposed revision to § 212.2, Chapter I, Title 8 of the Code of Federal Regulations, relating to permission to reapply. Representations which were received concerning the proposed rule have been considered. In the interest of clarity, the clause "except that this grant of permission to reapply shall not be regarded as a waiver of grounds of excludability as provided in section 5 or 7 of the Act of September 11, 1957," has been added, and the word "granted" substituted for the words "not required". The rule as set out below is adopted.

The last sentence of § 212.2 Consent to reapply for admission after deportation, removal, or departure at Government expense is amended to read as follows: "Permission to reapply is granted in the case of a person who was deported from the United States prior to March 1, 1959, and on March 1, 1959, and at the time of his application for a visa, or at the time of application for admission if a visa is not required, has a parent, spouse, or child who is a United States citizen or an alien lawfully admitted to the United States for permanent residence, except that this grant of permission to reapply shall not be regarded as a waiver of grounds of excludability as provided in section 5 or 7 of the Act of September 11, 1957."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

The basis and purpose of the aboveprescribed rule is to continue blanket permission to reapply only if deportation occurred prior to March 1, 1959, and on that date and when applying for a visa or for admission when a visa is not required the deportee has the required relationship.

This order shall become effective on March 1, 1959. Compliance with the requirements of section 4(c) of the Administrative Procedure Act relating to delayed effective date is unnecessary in this instance because the persons affected by the foregoing rule will not require additional time.

Dated: February 24, 1959.

J. M. SWING, Commissioner of Immigration and Naturalization.

[F.R. Doc. 59-1714; Filed, Feb. 26, 1959; 8:49 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II - Federal Housing Administration, Housing and Home Finance Agency

PART 200-INTRODUCTION

Subpart D—Delegations of Basic **Authority and Functions**

MISCELLANEOUS AMENDMENTS

§ 200.68, paragraph (a) 1. In amended to read as follows:

§ 200.68 Assistant Commissioner for Administration and Deputy. *

(a) To act with the Commissioner and under his direction in the determination of basic policy and be a member of the Executive Board.

2. In § 200.85, paragraph (a) is amended to read as follows:

§ 200.85 Executive Board.

*

(a) Members. The committee called the Executive Board is composed of the following members: Commissioner, Chairman; Deputy Commissioner, Vice Chairman; General Counsel; Assistant Commissioner for Field Operations; Assistant Commissioner for Mortgages and Properties; Assistant Commissioner for Technical Standards; Assistant Commissioner for Programs; Assistant Commissioner for Title I; Assistant Commissioner for Audit and Examination; and Assistant Commissioner for Administration. (Sec. 2, 48 Stat. 1246, as amended; 12 U.S.C. 1703. Interpret or apply sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 907, 65 Stat. 301, sec. 807, 63 Stat. 570, as amended; 12 U.S.G. 1715b, 1742, 1748f, 1750f)

Issued at Washington, D.C., February 20, 1959.

Julian H. Zimmerman, Federal Housing Commissioner.

[F.R. Doc. 59-1739; Filed, Feb. 26, 1959; 8:52 a.m.]

Title 21—FOOD AND DRUGS

Chapter I-Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B-FOOD AND FOOD PRODUCTS

PART 120-TOLERANCES AND EX-**EMPTIONS FROM TOLERANCES FOR** PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODI-

Tolerance for Residues of 2,4-Dichloro-6-(o-Chloroanilino)-Triazine

A petition was filed with the Food and Drug Administration by Chemagro Corporation, P.O. Box 4913, Kansas City 20, Missouri, requesting the establishment of a tolerance for residues of 2,4-dichloro-6-(o-chloroanilino)-triazine in or on

The Secretary of Agriculture has certified that this pesticide chemical is useful

for the purposes for which a tolerance is being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7(g) (23 F.R. 6403)), § 120.158 (a) of the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (23 F.R. 6403) is amended by adding thereto the item "celery". As amended, § 120.158(a) reads as follows:

§ 120.158 Tolerances for residues of 2,4-dichloro-6-(o-chloroanilino)-triazine.

(a) 10 parts per million in or on celery, tomatoes.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order. specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a (d)(2))

Dated: February 20, 1959.

[SEAL]

JOHN L. HARVEY, Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59-1730; Filed, Feb. 26, 1959; 8:51 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 516—RECORDS TO BE KEPT BY EMPLOYERS

Employers of Homeworkers in State of. California; Exceptions From Requirements

Section 516.21(c) of regulations, Part 516 (29 CFR Ch. V) issued pursuant to section 11(c) of the Fair Labor Standards Act of 1938, as amended (sec. 11(c), 52 Stat. 1060; 29 U.S.C. 211(cx), hereinafter referred to as the Act, requires that each employer obtain a homeworker's handbook from the Wage and Hour Division for each homeworker employed by him. The information required therein must

be entered by the employer or the person distributing or collecting homework on behalf of such employer each time work is given to, or received from, a homeworker. The handbook must remain in the possession of the homeworker until filled or until the homeworker's services are terminated. It must then be returned to the employer for preservation in accordance with the regulations.

On behalf of employers employing homeworkers in the State of California, who are covered by the Fair Labor Standards Act, the Department of Industrial Relations, Division of Industrial Relations, Division of Industrial Welfare, of that State, pursuant to § 516.9 of Part 516, has petitioned for an exception from the provisions of § 516.21(c) for the following reasons:

Rules and regulations (State of California, Administrative Code Title 8, sections 11008-11014), duly issued under the Industrial Homework Act of California as amended (State of California, Labor Code, Division 2, sections 2650-2667), require that each homeworker in that State must have in his or her possession a handbook issued by the Department of Industrial Relations. This handbook has been revised to make it suitable for joint State and Federal use and the Division of Industrial Welfare of the Department of Industrial Relations, State of California, has proposed that to avoid duplication the homework handbook issued by the State be used in that State for both State and Federal purposes. The information required to be entered; and the persons required to make such entries in the handbook issued by the State of California Department of Industrial Relations are the same as in the handbook of the Wage and Hour Division. The handbook of the State of California Department of Industrial Relations must be returned to the employer when filled or its use discontinued, and preserved by him for two years. The handbook contains a statement that it may be used in lieu of the handbook issued by the United States Department of Labor, as well as instructions relating to certain State and Federal homework requirements. Handbooks in the homeworker's possession and those preserved by their employers, will be available for inspection by a duly authorized representative of the Administrator of the Wage and Hour and Public Contracts Divisions.

Upon the basis of the information supplied by the petitioner and other available information, I find that the exception for which application has been made will avoid unnecessary duplication in recordkeeping and will not hamper or interfere with the enforcement of the Act or any regulations or orders issued thereunder.

Therefore, pursuant to \$516.9 of Part 516, the following exception is hereby granted from the requirements of \$516.21(c) of such part: The Homeworker's Handbook issued and furnished by the Department of Industrial Relations, Division of Industrial Welfare, State of California, may be used for any homeworker employed in the State of California, in lieu of the homework

handbook of the Wage and Hour Division specified in § 516.21(c).

(Sec. 11, 52 Stat. 1066, as amended; 29 U.S.C. 211)

Signed at Washington, D.C., this 20th day of February 1959.

CLARENCE T. LUNDQUIST,

Administrator.

[F.R. Doc. 59-1732; Filed, Feb. 26, 1959; 8:51 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Willapa Harbor, Wash.; Navigation Locks in Haines Creek, Fla.

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.770 is hereby revised changing the title of the section and providing for advance notice for opening the Washington State highway bridges across Willapa Harbor and its navigable tributaries, Washington, as follows:

§ 203.770 Willapa Harbor and Navigable Tributaries, Washington; bridges.

(a) General regulations. (1) The corporations or persons owning or controlling a drawbridge shall provide the same with the necessary tenders and the proper mechanical devices for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) The person in charge of a vessel desiring to pass shall cause to be sounded, within reasonable hearing distance of the bridge, repeating if necessary, and in time to give due notice to its operator, the proper signal for the bridge, as described in paragraph (b) of this section.

(3) When the draw of the bridge can be opened immediately, the draw tender shall reply by one long distinct blast, followed by one short distinct blast of a horn or whistle.

Note: As used in this section, a long blast of a horn or whistle shall mean a blast of 4 seconds duration, and a short blast shall mean one of 1 second duration.

(4) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by four short distinct blasts of a horn or whistle. (This signal may also be used by a vessel to countermand its signal to open the draw.)

(5) Trains and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under the drawbridge shall be prompt to prevent delay to either land or water traffic.

(b) Special regulations. (1) The following signals are prescribed for vessels wishing to have the draws opened:

(i) Washington State highway bridge, North Fork, Willapa River, at Raymond, Washington: One long blast of horn or whistle followed quickly by one short blast and one long blast.

(ii) Northern Pacific Railroad bridge, South Fork, Willapa River at Raymond, Washington: Two long blasts of a horn or whistle, followed quickly by one short blast.

(iii) Washington State highway bridge, South Fork, Willapa River at Raymond, Washington: Two long blasts of a horn or whistle followed quickly by two short blasts.

(iv) Washington State highway bridge, Naselle River, about 6 miles downstream from Naselle, Washington: One long blast of a horn or whistle.

(2) Constant attendance by draw tenders is not required at the State highway bridges across the North and South Forks of Willapa River at Raymond and the Naselle River about 6 miles downstream from Naselle. Vessels requiring openings of these bridges shall give advance notice of not more than 2 hours for openings between 8:00 a.m. and 5:00 p.m. on all days except Saturdays, Sundays and legal holidays, and advance notice of not more than 8 hours for openings at any other time. The owner of the bridges shall keep conspicuously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, copies of the regulations of this section, together with notices stating exactly how the bridge operators may be reached to obtain openings of the bridges, including names, addresses and telephone numbers.

[Regs., Feb. 11, 1959, 823.01 (Willapa Harbor, Wash.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), \$ 207.170a is hereby prescribed to govern the use, administration and navigation of the Eugene J. Burrell Navigation Lock in Haines Creek near Lisbon, Florida, as follows:

§ 207.170a Eugene J. Burrell Navigation Lock in Haines Creek near Lisbon, Florida; use, administration and navigation.

(a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 7 a.m. to 12 noon, and from 1 p.m. to 7 p.m., during the period of February 15 through October 15 each year; and from 8 a.m. to 12 noon, and from 1 p.m. to 6 p.m., during the remaining months of each year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels.

(b) The owner of the lock shall place signs, of such size and description as may be designated by the District Engineer, U.S. Army Engineer District, Jacksonville, Florida, at each side of this lock indicating the nature of the regulations of this section.

[Regs., Feb. 11, 1959, 800.21 (Haines Creek, Fla.)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U.S.C.1)

[SEAL]

R. V. LEE, Major General, U.S. Army, The Adjutant General.

[F.R. Doc. 59-1687; Filed, Feb. 26, 1959; 8:45 a.m.]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations
[Canal Zone Order 52]

PART 4—OPERATION AND NAVIGA-TION OF PANAMA CANAL AND ADJACENT WATERS

Vessels at Wharves: Fire Watch; Gangways

By virtue of the authority vested in the President of the United States by section 9 of title 2 of the Canal Zone Code, approved June 19, 1934, and delegated to me by Executive Order No. 9746 of July 1, 1946, as amended by Executive Order No. 10101 of January 31, 1950, § 4.47 of Part 4 of Title 35 of the Code of Federal Regulations, as adopted by Canal Zone Order No. 30 of January 6, 1953, 18 F.R. 280, and amended by Canal Zone Order No. 38 of December 23, 1954, 19 F.R. 9387, is hereby amended to read as follows:

§ 4.47 Vessels at wharves: fire watch; gangways.

A vessel lying at any pier, dock, or wharf in the Canal Zone shall at all times keep a satisfactory watch for fire and have suitable fire-fighting apparatus ready for immediate use. Any such vessel shall also keep each gangway which is in use, whether such gangway has been supplied by the vessel or by the Panama Canal Company, properly illuminated when necessary, and properly kept in safe condition for use, and properly secured at all times, moving or adjusting the same to allow for rise and fall of the tides and/or other changed circumstances.

(Sec. 5, 37 Stat. 562, as amended; 2 CZ Code 9, 48 U.S.C. 1318. E.O. 9746, 11 F.R. 7329, 3 CFR, 1946 Supp.)

WILBER M. BRUCKER, Secretary of the Army.

FEBRUARY 17, 1959.

[F.R. Doc. 59-1716; Filed, Feb. 26, 1959; 8:49 a.m.]

APPENDIX—CANAL ZONE ORDERS

[Canal Zone Order 51]

CONDITIONS OF EMPLOYMENT IN THE SERVICE OF THE CANAL ZONE GOVERNMENT ON THE ISTHMUS OF PANAMA

Amendment of Leave Provisions

By virtue of the authority vested in the President of the United States by section 81 of title 2 of the Canal Zone

Code, as amended by section 3 of the Act of July 9, 1937 (50 Stat. 487), and delegated to me by Executive Order No. 9746 of July 1, 1946 (11 F.R. 7329), as amended by Executive Order No. 10595 of February 7, 1955 (20 F.R. 819); the Executive Order No. 1888 of February 2, 1914, as amended, relating to conditions of employment in the service of the Canal Zone Government on the Isthmus of Panama, is hereby further amended as follows:

Section 1. Sections 20 through 39 of Executive Order No. 1888 of February 2, 1914, as amended by Executive Order No. 9740 of June 20, 1946 (11 F.R. 7029), and by Orders of the Secretary of War and Secretary of the Army: Canal Zone Orders No. 5 of January 30, 1947 (13 F.R. 8648), No. 17 of March 25, 1949 (14 F.R. 1499), No. 19 of February 28, 1950 (15 F.R. 1271), and No. 37 of October 26, 1954 (19 F.R. 7127), are amended to comprise sections 20 to 36 reading as follows:

LEAVE OF ABSENCE OF U.S. CITIZEN EMPLOYEES

20. What employees entitled to leave privileges under sections 20 to 35. All employees who are United States citizens, with the exception of appointees or employees who are in the military, naval, or public health service of the United States and eligible for the leave benefits provided for those services, shall be entitled to leave privileges under sections 20 to 35 of this order. The term "employees" as used in this section shall mean full-time employees.

21. Classes of leave. Leave with pay shall be divided into two classes, namely, annual leave and travel leave; the former to serve both as vacation leave and sick leave. The provisions of sections 20 to 34 of this order, in so far as concerns their application to teachers shall be subject to the special provisions contained in section 35 of this order.

22. Accrual of leave. The leave year shall consist of the period from the beginning of the first complete biweekly pay period in the calendar year to the beginning of the first complete biweekly pay period in the succeeding calendar year. An employee shall be entitled to 324 hours of annual leave each leave year, which shall accrue at the rate of 121/2 hours for each of the first 25 full biweekly pay periods in the leave year, and 11½ hours for the 26th pay period in such year: *Provided*, That leave shall accrue to an employee only while in a pay status. An employee shall be given prorata credit for leave for fractional pay periods occurring within the continuity of employment when his service is interrupted by a period in which no leave is earned.

23. Accumulation of leave. Annual leave accruing to an employee during the leave year and not taken by him before the beginning of the succeeding leave year shall accumulate for use in succeeding leave years until it totals not to exceed 720 hours: Provided, however, That there shall be no limitation on accumulation until the beginning of the 1960 leave year.

CROSS REFERENCES

For provisions relative to-

(1) Pay or credit for leave of employees ordered to active military or naval duty, see 5 U.S.C. section 61a (1952);

(2) Lump sum payments for leave upon separation from service, see 5 U.S.C. section 61b (Supp. V, 1958);

(3) Payment for leave upon death of employee, see 5 U.S.C. sections 61f to 61k (1952 and Supp. V, 1958); and

(4) Transfer of adjusted leave credit upon transfer to agencies operating under different leave system, see 5 U.S.C. section 2064(e) (Supp. V, 1958).

24. What absences chargeable to leave. Leave shall be charged only for absences during the hours prescribed as the basic work week and no charge shall be made for holidays occurring during such absences: Provided, however, That leave shall be charged for holiday absences in the case of employees assigned to longer than ordinary, regular periods of duty that include substantial amounts of time in a standby status who are paid additional compensation for such service on an annual basis in lieu of other premium pay and where the amount of such additional compensation is determined by taking into account the requirement of holiday work: And provided further, That, in the case of employees assigned a limited number of, or no, regularly scheduled hours of duty whose basic administrative work week is designated as the first forty hours of creditable time, leave shall be charged for all absences (excluding those occurring on holidays that fall within any full administrative work week in which the employee performs no service) by reference to a fixed, supplementary basic work week to be prescribed for that purpose.

25. Granting of leave. The annual leave provided for in sections 20 to 35 of this order, including such leave as will accrue to any employee during the leave year, may be granted at any time during such year as the Governor may prescribe.

26. Separation of employee indebted for unearned leave. In case of the separation of an employee who is indebted for unearned leave, the employee shall refund the amount paid him for such leave, or deduction therefor shall be made from any salary due him: Provided, That this section shall not apply in cases of death or of retirement for disability, or in case an employee is unable to return to duty because of disability, evidence of which is supported by an acceptable medical certificate: And provided further, That employees who enter military or naval service with restoration rights shall not be deemed as separated for the purposes of this section.

27. Overdrawn annual leave. Whenever at the end of the leave year an employee is indebted for unearned leave, the amount of the indebtedness may be carried forward for charge against leave earned in the succeeding leave year.

28. Absences for illness or injury. Absences on account of illness or injury may be charged to leave subject to such regulations as the Governor may prescribe.

29. Travel leave. An employee who, while in a leave-with-pay status, travels

to and remains at points outside the tropics for a period of 30 calendar days or more, inclusive of the time required for travel to and from such points, shall be entitled to 40 hours of travel leave with pay: Provided, That such leave shall not be credited to an employee more often than once in any leave year except that, if no travel leave was credited to the employee in the preceding leave year, he may be credited travel leave twice in the current leave year: And provided further, That travel leave shall not be credited unless the employee returns to duty. Travel leave credited prior to January 11. 1958, shall not be taken into account in determining the right to travel leave under this section.

30. Limitation on amount of leave granted.The maximum amount of leave with pay, inclusive of travel leave, which may be granted at any one time shall be 720 hours: Provided, That this limitation may be waived in case of serious illness or disability of an employee, established to the satisfaction of the Governor or such officers as he may designate.

31. Rate of pay for leave. Payment for leave shall be at the same rate as that which the employee would have received had he remained on duty during the period of leave: Provided, however, That in the case of employees subject to the Federal Employees Pay Act of 1945, as amended, the inclusion of night pay differential in such payment shall be subject to the limitations contained in section 301 of that Act, as amended, 5 U.S.C. section 921 (Supp. V, 1958).

32. Reporting from leave. An employee who fails to report from authorized leave within one week after the expiration of such leave shall be subject either to disciplinary action or termination unless it is determined that the delay was not reasonably avoidable and was therefore excusable.

33. Leave without pay. Leave of absence without pay may be granted subject to such regulations as may be prescribed by the Governor.

34. Regulations of Governor. Governor is granted continuing authority to make such additional regulations, not inconsistent with the provisions of this order, as he shall deem necessary for the completion, operation and administration of the leave system estab-

lished by this order.

35. Sick or emergency leave of teachers and certain other school employees. Teachers and other employees of the Schools Division who are hired on a 9 or 10 month basis may be granted not more than 15 days of leave with pay during the school year to cover illness or injury, presence of contagious disease or death in the home, or other pressing personal emergency, but shall not be entitled to any other leave with pay. Such leave shall be chargeable only for absence upon days during which the employee would otherwise work and receive pay, shall be exclusive of holidays, and shall be paid for at the rate prescribed in section 31 of this order. Such leave which is unused at the end of a school year shall be accumulated for use in succeeding school years until it totals not to exceed 45 days. Such leave shall be accorded and administered as provided in such regulations, not inconsistent with this section, as may be prescribed by the Governor.

LEAVE OF ABSENCE OF NON-U.S. CITIZEN EMPLOYEES

36. Leave privileges of non-U.S. citizen employees. The Governor is authorized to provide by regulation for the granting of leave privileges, generally, to employees who are not citizens of the United States: Provided, That the leave accruing to any such employee shall not exceed 208 hours in any one year and that annual leave accruing to an employee during the leave year and not taken by him before the beginning of the succeeding leave year shall accumulate for use in succeeding leave years until it totals not to exceed 460 hours.

Sec. 2. Employees who are subject to the existing provisions of section 22 of Executive Order No. 1888 and who are in a leave-earning status immediately prior to the effective date of this order shall be given pro rata credit at the rate of 27 hours per month for the fraction of the service month immediately preceding the effective date of this order.

Sec. 3. With respect to employees who are subject to the provisions of section 36 of Executive Order No. 1888, as amended by this order, and who prior to February 22, 1959 were credited with annual leave at a higher rate than that prescribed by such section, the limitation on accumulation of leave contained in the said section 36 is hereby suspended until the beginning of the 1961 leave year: Provided, That at the beginning of the 1960 leave year such employees shall be subject to the limitation contained in section 23 of Executive Order No. 1888, as amended.

Sec. 4. This order shall take effect on the first day of the first, complete, biweekly pay period following the date of its promulgation.

> Wilber M. Brucker. Secretary of the Army.

FEBRUARY 17, 1959.

[F.R. Doc. 59-1715; Filed, Feb. 26, 1959; 8:48 a.m.]

Title 43—PUBLIC LANDS:

Chapter I-Bureau of Land Management, Department of the Interior

APPENDIX-PUBLIC LAND ORDERS

[Public Land Order 1801]

[New Mexico 030359]

NEW MEXICO

Partially Revoking Executive Order No. 6276 of September 8, 1933

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Order No. 6276 of September 8, 1933, which withdrew lands in New Mexico for the purpose of aiding the State of New Mexico in making exchange selections as therein provided, is hereby revoked so far as it affects the following-described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 20 S., R. 6 W., Sec. 9, SE¼SE¼; Sec. 10, NE¼SW¼, S½SW¼.

The areas described aggregate 160 acres.

2. The lands are located in Luna County near the village of Nutt, New Mexico. The topography of the SE1/4 SE1/4 of Section 9 is smooth to moderately undulating, and the soils are shallow and rocky. The topography of the S½SW¼ and NE¼SW¼ of Section 10 is very rough and hilly, and the soils are very shallow and rocky.

3. No application for the lands may be allowed under the homestead, desert land, small tract, or any other nonmineral public law, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any existing valid rights and the requirements of applicable law, the lands are hereby opened to filing of applications and selections in accordance

with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs: -

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284), as amended, presented prior to 10:00 a.m. on March 27, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m. on June 26, 1959, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above presented prior to 10:00 a.m. on June 26, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

5. The lands have been open to applications and offers under the mineral-leasing laws, and to location for metal-liferous minerals. They will be open to location for non-metalliferous minerals under the United States mining laws beginning at 10:00 a.m. on June 26, 1959.

6. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photastic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

7. The State of New Mexico has waived the preference right of application granted to it by subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; Pub. Law 85-771).

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe. New Mexico.

ROGER ERNST,
Assistant Secretary of the Interior.

FEBRUARY 19, 1959.

[F.E. Doc. 59-1704; Filed, Feb. 26, 1959; 8:48 a.m.]

[Public Land Order 1802] [62646]

FLORIDA

Withdrawing Lands for Exchange Purposes in Connection With the National Key Deer Refuge

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Florida are hereby withdrawn from all forms of appropriation under the publicland laws, including mining, mineral leasing and materials disposal, and reserved under the jurisdiction of the Secretary of the Interior for exchange purposes pursuant to the provisions of the Act of August 22, 1957 (71 Stat. 412; Pub. Law 85–164), in connection with the National Key Deer Refuge:

TALLAHASSEE MERIDIAN

T. 60 S., R. 39 E., Sec. 2, lot 1. T. 65 S., R. 33 E., Sec. 33, lot 3. T. 66 S., R. 27 E., Sec. 26, lot 10; Sec. 34, lot 5. T. 66 S., R. 30 E., Sec. 34, lot 4. T. 66 S., R. 31 E., hat Sec. 19, lot 3; of Sec. 20, lot 1. T. 67 S., R. 27 E., Sec. 14, lot 14.

T. 67 S., R. 29 E., Sec. 1, lot 3; Sec. 3, Frl. NE 1/4 NW 1/4.

The areas described aggregate 20.44

ROGER ERNST,

Assistant Secretary of the Interior.

FEBRUARY 19, 1959.

[F.R. Doc. 59-1705; Filed, Feb. 26, 1959; 8:48 a.m.]

[Public Land Order 1803]

FLORIDA

Revoking Executive Order No. 3480of June 10, 1921

By virtue of the authority vested in the President by section 2380 of the Revised Statutes (43 U.S.C. 711) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Order No. 3480 of June 10, 1921, which withdrew the following-described public lands in Florida for townsite purposes, is hereby revoked:

TALLAHASSEE MERIDIAN

T. 53 S., R. 42 E., Sec. 2, lot 6.

. The tract described contains 41.95 acres.

The lands have been patented.

PAUL ERNST,
Assistant Secretary of the Interior.
FEBRUARY 20, 1959.

[F.R. Doc. 59-1706; Filed, Feb. 26, 1959; 8:48 a.m.]

Title 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

SUBCHAPTER D—FEDERAL SHIP MORTGAGE AND LOAN INSURANCE

[General Order 29, Rev., Amdt. 1]

PART 298—FEDERAL SHIP MORT-GAGE AND LOAN INSURANCE

Applications; Form and Time of Filing

Whereas, in compliance with section 4 of the Administrative Procedure Act, Notice of Proposed Rule Making was published in the Federal Register issue of December 20, 1958 (23 F.R. 9840); and

Whereas, the Maritime Administrator has considered the comments received;

Whereas, the Maritime Administrator under authorities cited in said Notice has ordered that the amendment as proposed be adopted:

posed be adopted; Now, therefore, § 298.3(c) is hereby amended to read as follows: § 298.3 Applications.

(c) Form and time of filing. Applications must be in form, contain information, be accompanied by supporting documents and be certified as prescribed or approved by the Secretary. Applications involving the construction of vessels shall, until March 1, 1959, be on file with the Administration prior to the time the vessel is capable of being launched. Commencing March 1, 1959, such applications shall be on file with the Administration and approved in principle by the Secretary prior to the time the keel of the vessel is laid. Applications involving the reconstruction or reconditioning of vessels shall, commencing March 1, 1959, be on file with the Administration and approved in principle by the Secretary before the work is commenced. The time so specified for filing applications, however, shall not apply to applications filed under section 1106 of the Act, nor to applications which have been approved in principle by the Secretary prior to the effective date of this amendment. Likewise, the time so specified for filing applications shall not apply in any case in which the Secretary, prior to the effective date of this amendment, has agreed to a filing by a different time. In each case, the application and the proposed documents to implement the application when approved shall be on file with the Administration in sufficient time to permit the Secretary to make a full and complete investigation and to take all other action required in respect thereof and in any event no later than 90 days prior to the anticipated date of the closing of the transaction.

In accordance with the provisions of section 4, Administrative Procedure Act, it is deemed impracticable to delay the effective, date hereof, therefore, this amendment shall be effective upon publication in the Federal Register.

(Secs. 204, 1108, 49 Stat. 1987, as amended, 52 Stat. 973; 46 U.S.C. 1114, 1278)

Dated: February 24, 1959.

 \cdot By order of the Maritime Administrator.

[SEAL]

James L. Pimper, Secretary.

[F.R. Doc. 59-1762; Filed, Feb. 26, 1959; 9:34 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service,
Department of the Interior

SUBCHAPTER C—MANAGEMENT OF WILDLIFE CONSERVATION AREAS

PART 17—LIST OF AREAS National Wildlife Refuges

CROSS REFERENCE: For order withdrawing lands for exchange purposes in connection with the National Key Deer Refuge (§ 17.3), see Public Land Order No. 1802 in the Appendix to Title 43, Chapter I, supra.

PART 17—LIST OF AREAS National Wildlife Refuges

CROSS REFERENCE: For order affecting lands lying within the Kenai National Moose Range, as established by Executive Order 8979 of December 16, 1941 (§ 17.3), see F.R. Doc. 59-1710, infra.

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

I 26 CFR (1939) Part 39 1

INCOME TAX; TAXABLE YEARS BE-GINNING AFTER DECEMBER 31, 1951

Amounts Received by Certain Motor Carriers in Settlement of Claims Against the United States

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the Fen-ERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code of 1939.

(53 Stat. 32, 467; 26 U.S.C. 62, 3791)

[SEAL] DANA LATHAM, Commissioner of Internal Revenue.

In order to conform Regulations 118 (26 CFR (1939) Part 39) to section 99 of the Technical Amendments Act of 1958 (72 Stat. 1673), relating to amounts received by certain motor carriers in settlement of claims against the United States, such regulations are amended as follows:

PARAGRAPH 1. Section 39.42 (26 CFR (1939) 39.42) is amended by adding at the end thereof the following statutory provision:

No. 40--2

§ 39.42 Statutory provisions; accounting periods and methods of accounting; period in which items of gross income included.

SEC. 99. Amounts received by certain motor carriers in settlement of claims against the United States [Technical Amendments Act of 1958 (72 Stat. 1673)]. Notwithstanding the provisions of section 42 of the Internal Revenue Code of 1939, an amount received in settlement of any claim against the United States arising out of the taking by the United States (pursuant to Executive Order Numbered 9462, dated August 11, 1944 (3 CFR, 1943-1948, p. 322)) of possession or control of any motor carrier transportation system owned or operated by the taxpayer shall, at the election of the taxpayer, under regulations prescribed by the Secretary of the Treasury or his delegate, be deemed to be income which was received or accrued in the taxable years during which such motor carrier transportation system was in the possession or control of the United States. election referred to in the preceding sentence shall be made, under regulations prescribed by the Secretary of the Treasury or his delegate, within one year after the date of the enactment of this Act, and, if made, shall be irrevocable. The period for assessment of any deficiency attributable to the inclusion of income in any taxable year of the taxpayer by reason of the application of this section shall not expire prior to one year after the date on which the taxpayer makes the election referred to in the first sentence, notwithstanding the provisions of section 275 of the Internal Revenue Code of 1939 or any other provision of law or rule of law which would otherwise prevent such assessment. Nothwithstanding section 292 of the Internal Revenue Code of 1939, no interest shall be assessed or collected for any period prior to March 15, 1953, with respect to that part of any deficiency which is attributable to the inclusion of income in any taxable year by reason of the application of this section.

PAR. 2. There is inserted immediately after § 39.42-7 the following section:

§ 39.42-8 Amounts received by certain motor carriers in settlement of claims against the United States.

(a) In general. Notwithstanding the provisions of section 42(a) or of paragraph (a) of § 39.42-1, an amount received in settlement of any claim against the United States arising out of the taking by the United States (pursuant to Executive Order No. 9462, dated August 11. 1944 (3 CFR 1943-1948, p. 322)) of possession or control of any motor carrier transportation system owned or operated by the taxpayer shall, at the election of the taxpayer made in accordance with paragraph (c) of this section, be deemed to be income which was received or accrued in the taxable years during which such motor carrier transportation system was in the possession or control of the United States. No part of such income shall be treated as income from the sale or exchange of a capital asset. In the event the period during which the taxpayer's property was in the possession or control of the United States covers more than one taxable year, the amount of the settlement shall be allocated ratably over the period during which the carrier's system was in such possession or control.

(b) Effect of election. (1) If, pursuant to election, an amount described

in paragraph (a) of this section is included in the gross income (and excess profits net income) of a taxable year with respect to which the assessment of a deficiency is prevented by section 275 or any other provision of law or rule of law, the tax for such year shall be redetermined solely by including such amount in gross income (and excess profits net income) and by recomputing any item which depends upon gross income, adjusted gross income, or adjusted excess profits net income, or adjusted charitable contributions).

(2) If, as the result of a redetermination of the tax for a taxable year, the amount of any deduction (such as the net operating loss deduction or capital loss carryover) or credit (such as the unused excess profits credit) for any other taxable year is affected, the tax for such other taxable year shall also be redetermined to reflect the effect of the change in the deduction or credit for

such other taxable year.

(3) Section 99 of the Technical Amendments Act of 1958 does not provide for the allowance of a credit or refund or for the assessment of a deficiency (except as otherwise provided in this paragraph and in paragraph (r) of § 39.275-1) with respect to the tax attributable to an amount described in this section if such credit or refund or the assessment of such deficiency is barred by the applicable statute of limitations. Thus, if an award was properly includible in income for the taxable year 1952, nothing in this section shall permit refund or credit or assessment of a deficiency in tax with respect to the award for that year or any other year if such refund, credit or assessment is otherwise prevented for 1952. Accordingly, the election provided under paragraph (a) of this section may not be made with respect to such award.

(c) Manner of election. An election under paragraph (a) of this section to treat the amounts awarded as having been received or accrued in prior years shall be made by filing a statement with the district director for the district in which the returns were filed. The statement, accompanied by amended returns, shall be filed for any taxable years in respect of which the tax is to be redetermined in accordance with the provisions of paragraph (b) of this section. Such statement shall indicate that the taxpayer has elected under the provisions of section 99 of the Technical Amendments Act of 1958 to report amounts received in settlement of claims against the United States in accordance with such provisions and shall also show:

(1) The total amount of settlement received,

(2) The taxable year or years (and the period in each such year or years) during which the United States was in possession or control, and

(3) The amount of such settlement applicable to each such taxable year.

The election must be made on or before September 2, 1959, and if made, shall be irrevocable.

(d) Cross references. For provisions relating to the period of limitation on the

assessment and collection of a deficiency for any taxable year attributable to the inclusion in income by motor carriers of amounts received in settlement of claims against the United States, see paragraph (r) of § 39.275-1. For provisions relating to the interest on any such deficiency, see § 39.292-1.

Par. 3. In § 39.275-277 there is inserted immediately preceding section 276 the following:

§ 39.275-277 Statutory provisions: assessment and collection of deficiencies; period of limitations; exceptions; suspension of running of period of limitation.

SEC. 99. Amounts received by certain motor carriers in settlement of claims against the United States [Technical Amendments Act of 1958 (72 Stat. 1673)]. * * * The period for assessment of any deficiency attributable to the inclusion of income in any taxable year of the taxpayer by reason of the application of this section shall not expire prior to one year after the date on which the taxpayer makes the election referred to in the first sentence, notwithstanding the provisions of section 275 of the Internal Revenue Code of 1939 or any other provision of law or rule of law which would otherwise prevent such assessment. * * *

Par. 4. Section 39.275-1 is amended by adding thereto a new paragraph (r) as follows:

§ 39.275-1 Period of limitation upon assessment of tax.

(r) A deficiency for any taxable year which is attributable to the inclusion in gross income (or excess profits net income) of an amount described in § 39.42–8, relating to amounts received by certain motor carriers in settlement of claims against the United States, may be assessed at any time prior to one year after the date on which the taxpayer makes an election in accordance with section 99 of the Technical Amendments Act of 1958, notwithstanding the provisions of section 275 or any other provision of law which would otherwise prevent such assessment.

Par. 5. In § 39.292-294 there is inserted immediately preceding section 293 the following:

§ 39.292-294 Statutory provisions; interest and additions to the tax; interest on deficiencies; additions to tax in case of deficiency; additions to tax in case of nonpayment.

SEC. 99. Amounts received by certain motor carriers in settlement of claims against the United States [Technical Amendments Act of 1958 (72 Stat. 1673)]. ** * Notwithstanding section 292 of the Internal Revenue Code of 1939, no interest shall be assessed or collected for any period prior to March 15, 1953, with respect to that part of any deficiency which is attributable to the inclusion of income in any taxable year by reason of the application of this section.

PAR. 6. There is inserted immediately after § 39.292-294 the following section:

§ 39.292-1 Interest on deficiency in case of motor carriers.

Notwithstanding the provisions of section 292, no interest shall be assessed or

collected for any period prior to March 15, 1953, with respect to that part of any deficiency which is attributable to the inclusion of income in any taxable year by reason of the taxpayer's having made an election in accordance with the provisions of section 99 of the Technical Amendments Act of 1958.

Par. 7. The amendments to Regulations 118 (26 CFR (1939) Part 39), covering taxable years beginning after December 31, 1951, set forth in this Treasury decision, are hereby made applicable to taxable years beginning after December 31, 1941, and before January 1, 1952 (such years being covered by Regulations 111 (26 CFR (1939) Part 29).

[F.R. Doc. 59-1728; Filed, Feb. 26, 1959; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs
I 25 CFR Part 242 I
DISTRIBUTION OF ASSETS
California Rancherias and
Reservations

Basis and purpose. Pursuant to section 4(a) of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003(a)), notice is hereby given that under the authority vested in the Secretary of the Interior by section 12 of the act of August 18, 1958 (72 Stat. 619), it is proposed to add a new part to Title 25—Indians, of the Code of Federal Regulations, to read as set forth below.

The purpose of this part is to provide policies and procedures governing the distribution of the assets of the rancherias and reservations listed in the act of August 18, 1958 (supra), known as the "Rancheria Act".

Interested persons may submit written comments, suggestions, or objections with respect to the proposed regulation to the Bureau of Indian Affairs, Washington 25, D.C., within 30 days of the date of publication of this notice in the Federal Register.

ROGER ERNST,
Assistant Secretary of the Interior.

FEBRUARY 20, 1959.

Sec. 242.1 Purpose and scope. 242.2 Definitions. 242.3 Plan of distribution. 242.4 General notice. 242.5 Objections to plan. 3

242.7 Organized rancheria or reservation. 242.8 Rancheria or reservation business cor-

poration. 242.9 Proclamation.

AUTHORITY: §§ 242.1 to 242.9 issued under sec. 12 of the Act of August 18, 1958, 72 Stat. 619.

§ 242.1 Purpose and scope.

The purpose of this part is to provide policies and procedures governing the distribution of the assets of the following rancherias and reservations in the State of California: Alexander Valley, Auburn, Big Sandy, Big Valley, Blue Lake, Buena

Vista, Cache Creek, Chicken Ranch, Chico, Cloverdale, Cold Springs, Elk Valley, Guidiville, Graton, Greenville, Hopland, Indian Ranch, Lytton, Mark West, Middletown, Montgomery Creek, Mooretown, Nevada City, North Fork, Paskenta, Picayune, Pinoleville, Potter Valley, Quartz Valley, Redding, Redwood Valley, Robinson, Rohnerville, Ruffeys, Scotts Valley, Smith River, Strawberry Valley, Table Bluff, Table Mountain, Upperlake and Wilton.

§ 242.2 Definitions.

As used in this part, terms shall have the meanings set forth in this section.

(a) "Adult Indian" means any Indian who is an adult under the laws of the State in which he is domiciled.

(b) "Distributee" means any Indian who is entitled to receive, under a plan prepared pursuant to section 2 of the act of August 18, 1958, 72 Stat. 619, any assets of a rancheria or reservation.

(c) "Dependent members", as used in the phrase "dependent members of their immediate families", includes all persons for whose support the distributee is legally liable according to the laws of the State of California and who are related by blood or adoption or by marriage, including common law or customary marriage, who are domiciled in the household of the distributee, and who receive more than one-half of their support from such distributee.

(d) "Formal assignment" means any privilege of use and occupancy of the real property of a rancheria or reservation which is evidenced by a document in writing.

(e) "Informal assignment" means any privilege or claim of privilege of use and occupancy of the real property of a rancheria or reservation, not based on an' instrument in writing.

§ 242.3 Plan of distribution.

The plan of distribution to be prepared under section 2 of the Rancheria Act shall be in writing and may be prepared by those Indians who hold formal or informal assignments on the rancheria or reservation involved, or by those Indians who have or claim to have some special relationship to the particular rancheria or reservation involved, not shared by Indians in general, or may be prepared by the Secretary of the Interior after consultation with such Indians. Any such plan must be approved by the Secretary before submission to the distributees for approval. Such plan shall provide for a description of the class of persons who shall be entitled to participate in the distribution of the assets and shall identify, by name and last known address, those persons to be dis-tributees under the plan and dependent members of their immediate family.

§ 242.4 General notice.

When the Secretary has approved a plan for the distribution of the assets of a rancheria or reservation, a general notice of the contents of such plan shall be given in the following manner:

(a) Service by regular mail, or in person, of a copy of the plan to those who participated in the drafting of the plan,

and to the distributees named in the plan.

(b) Service by regular mail, or in person, of a copy of the plan to all other persons who have indicated by a letter addressed to the Area Director that they claim an interest in the assets of the rancheria or reservation involved.

(c) Posting a copy of the plan in a public place on the rancheria or reservation, and in the Post Office serving the rancheria or reservation.

§ 242.5 Objections to plan.

Any Indian who feels that he is unfairly treated in the proposed distribution of the property of a rancheria or reservation as set forth in a plan prepared and approved under § 242.3 may. within 30 days after the date of the general notice, submit his views and arguments in writing to the Area Director, Bureau of Indian Affairs, P.O. Box 749, Sacramento, California. The Area Director shall act for persons who are minors or non compos mentis if he finds that such persons are unfairly treated in the proposed distribution of the property. Such views and arguments shall be promptly forwarded by the Area Director for consideration by the Secretary.

§ 242.6 Referendum.

After consideration by the Secretary of all views and arguments, the plan or a revision thereof, and a notice of a referendum meeting, shall be sent by registered mail, return receipt requested, to each distributee. Thereafter, the Secretary shall cause a referendum to be held at a general meeting of the distributees, at the time and place set forth in the notice of the meeting. Any adult Indian distributee may indicate his acceptance or rejection of the plan by depositing his ballot in a ballot box at the meeting place or by mailing his ballot to the Area Director, Bureau of Indian Affairs, P.O. Box 749, Sacramento, California, clearly marked on the envelope the rancheria or reservation referendum for which the ballot is being submitted. All ballots which are mailed shall be posted so as to be received at least two days before the date set for the referendum meeting. Ballots received thereafter shall not be accepted. At the close of the meeting all ballots shall be counted; and if the plan is approved by a majority of the adult Indian distributees, it shall be final and shall take effect on the date approved.

§ 242.7 Organized rancheria or reservation.

When a plan for the distribution of the assets of a rancheria or reservation organized under section 16 of the Indian Reorganization Act (25 USC 476) shall have been approved and adopted at a referendum held for the purpose, the governing body of such constitutional rancheria or reservation shall cause a final financial statement to be prepared, including a certificate that all the obligations and debts of said rancheria or reservation have been liquidated or adjusted and that all the assets have been or are simultaneously therewith conveyed to persons or groups authorized by law to receive them which may include any

organization under State law. The constitution of the group shall upon receipt of a satisfactory certificate of completion be revoked by the Secretary.

§ 242.8 Rancheria or reservation business corporation.

When a plan for the distribution of the assets of a tribal business corporation has been approved and adopted by a referendum held for the purpose, the Board of Directors, or equivalent, of such Indian business corporation shall cause a final financial statement to be prepared and submitted to the Area Director, including a certificate that all the obligations and debts of said corporation have been liquidated or adjusted and that all the assets of such corporation have been or are simultaneously therewith conveyed to persons or corporations authorized by law to receive them. The charter of the group shall upon receipt of a satisfactory certificate of completion be revoked by the Secretary.

§ 242.9 Proclamation.

When the provisions of a plan have been carried out to the satisfaction of the Secretary, he shall publish in the FEDERAL REGISTER a proclamation declaring that the special relationship of the United States to the rancheria or reservation and to the distributees and the dependent members of their immediate. families is terminated. The proclamation shall list the names of the distributees and dependent members of their immediate families who are no longer entitled to any services performed by the United States for Indians because of their status as Indians.

[F.R. Doc. 59-1703; Filed, Feb. 26, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1018]

[Docket No. AO-286-A1]

MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Decision With Respect to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Fort Lauderdale, Florida, on December 29, 1958, pursuant to notice thereof issued on December 12, 1958 (23 F.R. 9761).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agri-cultural Marketing Service, on February 10, 1959 (24 F.R. 1133) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

- Definition of "producer".
 Definition of "pool plant"
- 3. Classification of fortified products.
- 4. Price for Class I milk.
- 5. Plants where other Federal orders may apply.

6. Administrative expense.

Findings and conclusions. lowing findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Producer definition. The definition of "producer" should be changed to exclude dairy farmers whose shipments to

this market are irregular. It was proposed by the producers' association that no person should be a producer whose milk is delivered to a pool plant on less than eight days during the month, unless such person was a producer during the preceding month. This proposal was made because there is a tendency among farmers supplying other Florida markets to ship intermittently to pool plants in this market. On this basis they become producers for the days on which they deliver milk, and participate in base milk utilization to the extent of 75 percent of their deliveries. The producer witness pointed out that other major markets in Florida operate under base-rating plans and that when farmers in such other markets have considerable excess milk they look to the Southeastern Florida market as an outlet for such excess and as an opportunity to share in the market-wide pool. The existence of large dairy farm operations in these other markets, similar to the operations in this market, and farm-ownership of bulk delivery trucks, make it economical for movement of such excess milk directly from the farm to the pool plant in this market. Arrangements may arise where several dairy farmers in another market have one member of their group bring to a pool plant milk which actually represents the excess of the several members of the group.

The eight-day limitation was arrived at on the basis of the consideration that a farmer bringing all of his milk production to a plant would need to make deliveries at least every third day, and that such a farmer in a 28-day month would need to deliver nine times. Thus, a farmer who delivered less than eight days in a month definitely would not be a full-time producer for this market.

The representative of the producer association acknowledged that such irregular deliveries of milk might at times serve as supplemental supplies for this market, but that such milk should not qualify as producer milk.

"producer" definition should apply to those farmers who constitute the regular supply for the market. Returns to farmers regularly supplying this fluid market should not be dissipated by sharing Class I utilization with milk which is actually surplus of other markets. The requirement of delivery on eight days in a month unless the farmer was a producer in the preceding month is a reasonable method of accomplishing this objective and should be adopted.

Deliveries of milk from dairy farmers who do not qualify as producers should be treated as other source milk.

The producer association also requested that order language more specifically identify the person who is the producer of milk delivered to pool plants. This was requested to assure proper application of the term "producer" when milk is delivered in the name of an individual who is not responsible for the milk production.

The requirement that milk deliveries apply in qualifying as a producer only the person who produced such milk is the sense of the present order provision. Delivery of milk in the name of a person who is not the person responsible for the milk production enterprise would result in misapplication of the intent of the order if such a person were treated as a This would break down the producer. distinction between milk which is the regular source of supply for the market and other milk which is not the regular supply for the market. To meet this problem explanatory language should be inserted in the part of the order entitled "Application of Provisions", so as to clarify the distinction between a person who is responsible for the milk production enterprise on a continuing basis as to management and risk and another person who may deliver milk in his own name but is not responsible for the milk production.

2. Definition of pool plant. Pooling of a plant distributing milk on routes in the marketing area should depend on distribution in the marketing area of at least 20 percent of the plant's receipts of milk and other fluid milk products.

Producers proposed that a distributing plant should qualify as a pool plant if 25 percent of the plant's receipts of milk were sold as Class I milk on routes in the marketing area. This would modify the present requirement that a pool distributing plant must dispose of on routes in the marketing area at least 10 percent of its total Class I sales. Pooling of such a plant depends also on the requirement that its total Class I sales be not less than 50 percent of its receipts of milk from dairy farmers and other sources.

In support of their proposal, producers argued that this would eliminate the deleterious effects resulting under the present "pool plant" definition which, at times, has resulted in the pooling of a plant which was not continuously or substantially associated with the market and had business primarily elsewhere. Because of the existence of military bases within the marketing area, a plant not regularly associated with the market may have sales only to such military installations. Such business is awarded on a contract basis for temporary periods.

Pooling of such plants which have only a temporary connection with the market results in a similarly temporary allocation to the farmers supplying such plant of a prorated share in returns of Class I sales of all handlers in the Southeastern Florida market. Under present order provisions such a plant might be pooled by having as little as 5 percent of the milk it handles disposed of in this marketing area. The temporary pooling of

tion of returns for Class I sales among the dairy farmers on whom this market regularly depends for a fluid milk supply. It also disrupts the regular operation of the base'excess plan under the-order. Often, regulation of a plant on a temporary basis results in considerable inconvenience and confusion to farmers supplying the plant.

All pool plants regularly supplying the marketing area dispose of nearly all of their milk by distribution to wholesale and retail outlets within the marketing area. On the other hand, those plants which during the effective period of this order have qualified as pool plants for only temporary periods have been plants with their regular business at a great distance from this market. Milk supplied to this market from those plants has been surplus to their regular business. These plants have not constituted a substantial part of the regular market supply system and, as such, their utilization should not be pooled with that of the regular pool plants. Such pooling would be inequitable to farmers who are the regular, dependable supply for the market and would interfere with the objective of assuring an adequate supply of milk for the market.

The present pool plant provisions of the order are based upon evidence in the promulgation record (hearing held September 5-7, 10-14, 1956), but in absence of the specific evidence of the tendency under such provisions to pool plants only temporary and incidentally associated with this market. In view of experience since the inception of the order, the pool plant provisions for distributing plants should be modified. The order should require that pool status of a plant distributing milk on routes in the marketing area depend on such distribution being equal to at least 20 percent of the amount of milk received at the plant from dairy farmers and fluid products received from other plants. No change should be made in the requirement that a pool distributing plant have a Class I utilization equal to at least 50 percent of its receipts.

3. Fortified products. The order should continue to require accounting for concentrated milk products on the basis of the original pounds of skim milk and butterfat required to produce such products. The accounting for fortified products as partly Class I should be clarified, and modified as to the use of condensed milk in fortified products.

Producers proposed that fortified milk products sold in the fluid trade be accounted for and classified on a uniform basis in the case of nonfat solids added in dry form and nonfat solids added in the form of condensed skim milk. The proposal would account for fortified skim milk products in Class I on the basis of the volume sold converted to pounds of skim milk equivalent at a volume-weight ratio the same as for unmodified skim

The reasons for accounting for concentrated milk products on the basis of the original pounds of skim milk and butterfat required to produce such product were set forth in the decision of the Secretary on July 11, 1957 (22 F.R. 5588). such plants disrupts the normal alloca- Such accounting should be continued for

the same reasons to prevent displacement of producer milk from Class I use.

In the case of milk or skim milk fortified by adding nonfat dry milk solids, handlers have been charged the Class I price for the normal weight of unmodified skim milk equal in volume to the product sold. The remaining amount of total milk equivalent of nonfat solids contained therein has been classified as Class II milk. This is in recognition of the fact that nonfat dry milk used in fortification is obtained from sources outside the production area which are not specifically named as approved sources by the marketing area health authorities. The producer proposal would recognize that condensed skim milk is available from similar sources for fortification purposes.

Handler testimony agreed with the accounting and classification proposal by producers on such products. It was stated that use of condensed skim milk results in a better fortified product.

Fortified skim milk products should be classified as Class I up to the weight of an equal volume of unmodified skim Any nonskim product which is fortified with added nonfat solids should be classified as Class I up to the weight of an equal volume of milk of the same butterfat test. Such a method of classification will recognize the use of condensed skim milk for fortification on the same basis as dry nonfat solids, and will prevent displacement of producer milk from any Class I use for which it is avail-To assure that overages which able: may result from various handler operations are properly evaluated, § 1018.70(b) should specify adjustment of the applicable class price by the butterfat differential pursuant to § 1018.73.
4. Class I price. The price for Class I

milk should be continued at the present level of \$7.00 per hundredweight for the period beginning with March 1959 and through June 1960.

The producer price proposal was presented by the Independent Dairy Farmers Association, whose members produce about 95 percent of the milk supply for this market. The association proposed that after the expiration of the present price provision which is effective through February 1959, the present level of price for Class I milk should be continued through June 1960. The proposal would establish a price of \$6.70 per hundredweight for the months of April through July and \$7.15 per hundredweight for the months of August through March, which on an annual basis would be equivalent to the present price of \$7.00 per hundredweight. The association requested that the price adjustment factors, including the feed-wage price formula and the supply-demand price adjustment which now are described in the order but have not been effective, should be retained in the order but the effective time thereof should be deferred for a period of about eighteen months.

Representatives of the producer association testified that conditions affecting production of milk for this market require continuation of the Class I milk price at the present level. Dairy operations in this area require the purchase of all feed concentrates and a very large

percentage of the roughage feed. These feeds are largely imported from other parts of the country. A relatively large operation is needed to achieve efficiency under the existing production conditions. The typical dairy farm operation is based on a herd of 400 cows or more. The dairy production enterprise in this area has been affected recently by intensive real estate development in southern Florida which has caused some farmers to move their operations to locations further away from the market, particularly into the interior and central Florida locations. There is not sufficient production experience on the relocated farm units to indicate whether there will be any change in the potential supply for the market. Experience with feed crops has not been encouraging in view of failures due to insects and

The producer association witnesses also testified that the previous and current tourist seasons had been affected by adverse weather and by transportation strikes, and as a result data on milk sales and economic factors were not typical as compared with previous seasons. Evidence was presented to indicate that continued growth of population and industry in the area is expected in the future.

The land available for dairy farms was characterized as either sandy or muckland of low natural fertility. Establishment of pasture requires a high rate of expenditure for development and fertilization. Very little natural, untreated pasture is available. The relatively high average temperature requires a somewhat higher rate of feeding of milk cows per hundredweight of milk produced than in cooler climates.

Herd obtained replacements are largely by purchases from out-of-state sources. Raising calves is generally impractical, because of cost of importing feed. In 1957, the average price received by farmers for milk-cows in Florida was reported by the U.S. Department of Agriculture as \$100 per head, and for the entire country the average reported was \$166 per head. Similar differences existed in other periods. These differences are explained largely by the fact that the sale of milk cows by Florida farmers is for slaughter, but prices reported for other parts of the country more nearly represent sales of cows which may be used for milk production. The latter prices also represent what Florida farmers must pay for herd replacements.

The number of producers supplying the marketing area has declined from 100 at the inception of the order in September 1957 to 96 in November 1958. During this period some fariners went out of dairying when they sold their land for real estate development. Some new producers have also come on the market.

Quantities of milk supplied by producers in September, October, and November 1958 showed increases of about 14 percent, 11 percent, and 10 percent, respectively, over the same months of 1957. Class I milk disposition for the same months showed increases of 13 percent, 12 percent, and 3 percent, respec-

tively, over the same months of 1957. Transportation strikes may have affected the November sales.

Class I utilization of producer milk has been at a high level throughout the period since the order was established. In each of twelve of the first fifteen months of order regulation, 94 percent or more of producer milk was classified in Class I. The lowest level of utilization of producer milk in Class I was 90.9 percent. In six of the first fifteen months, producer milk was less than Class I sales.

Some whole milk is customarily received at pool plants from nonpool plants. The most substantial quantities from out-of-state markets have been imported in the period beginning with August and through the winter season to supplement local supplies in meeting requirements of this marketing area for Class I milk. In August 1958, this nonpool milk amounted to about 5.2 percent of total milk receipts at pool plants; in September, 10.9 percent; in October, 8.6 percent; and in November, 2.7 percent.

Comparison of the order Class I price with the prices under other orders where milk for this market has been obtained or where milk is available for export in fall months should allow a reasonable amount for transportation cost. During the months of August through November, the price under the Chicago order for Class I milk of 3.5 percent butterfat content varied from \$3.84 to \$3.90 per hundredweight and the average was \$3.865. Adjusted by the producer butterfat differential under the Chicago order, this would amount to about \$4.22 for milk of 4 percent butterfat. Allowing \$2.07 for transportation to Miami (at the rate of 0.15 cents per mile, which approximates the rate allowed for location differentials in Order No. 118), the cost of such milk in Miami, Florida, would have been about \$6.29. On the same basis, the cost of milk from the Ozarks marketing area would have been \$6.59; that from Chattanooga would have been \$6.29; from Knoxville, \$6.19; and from Bristol, Virginia (Appalachian, Order No. 23), \$6.80.

The cost calculations made by producer representatives indicated in every case a cost higher than those just cited herein, ranging from \$7.16 to \$7.70 in the months of August-November 1958. The reasons given for the higher cost included premiums over order prices paid in the other markets, higher rates of transportation on intermittent spot shipments, and an assumed charge for handling of 40 cents per hundredweight which would be demanded by the shipping plant. It was also testified that the producer association had arranged for about two-thirds of the other source milk brought into the market during July through November 1958, and that this milk had cost handlers \$7.00 per hundredweight, but that additional expense had been incurred by the producer association.

Information on prices of substantial purchases of other source milk during the fall months of 1958, other than those arranged by the producer association, is that the price of such milk averaged about \$7.55 per hundredweight.

The relationship of the price for Class I milk in this market to prices in other Federal order markets is affected by consideration of the long distances involved and uncertainty of the supply arrangements including the difficulties experienced by some suppliers in meeting the bacteria test required under health regulations enforced by the Florida State Department of Agricukure and health authorities in the marketing area. Shipments from outside markets have been intermittent. The producer associations in the Appalachian and Chattanooga markets have been able to move milk to the Southeastern Florida market when their supplies exceed local fluid requirements, but have not developed a reserve sufficient to be considered as a reliable, regular source of supplies for this market. (In this connection official notice is taken of published statistics of the market administrators in the Appalachian and Chattanooga markets.) Other markets with large reserve supplies have not developed a business of supplying substantial quantities of milk to the Southeastern Florida market on a regular basis. It is to be expected that under these conditions a handling charge would be a part of the cost of bringing milk from other markets.

Prices paid farmers in other fluid markets throughout the Florida peninsula are about the same as in this market both as to fluid use and uniform blend prices. Such other markets have a high utilization in fluid sales similar to this market.

In view of the high Class I utilization in this market which has been a general condition since the inception of the order, the present level of Class I price should be continued for a temporary period. The price should be continued through June 1960, so as to allow a further period of observation and opportunity for review at a public hearing, with the provision, however, that the price be subject to a differential relationship to basic formula prices in other markets. differential relationship should be established by a provision that the Class I price shall not differ by more than 25 cents from the butter-powder price formula presently expressed in § 1018.50 (d) (2) plus \$3.50.

Producer representatives requested that the feed-wage price adjustment index be retained in the order provisions so that it could serve as a price adjustment mechanism in future periods, but should not be effective for another sixteen or eighteen months. The producer association took the position this pricing mechanism should be reexamined during this interim period.

It was suggested also that the effect of any supply-demand adjustment should be deferred until after further study and review of marketing conditions at another hearing. The supply-demand adjustment provision in the order was designed to adjust the Class I price on the basis of the relationship of producer milk supplies to the volume of Class I sales and was scheduled to become effective after the first eighteen months of the order. No specific revision of the supply-demand adjustment was outlined on the

record, although a suggestion was made that a twelve-month moving average would be a better mover than two months.

The feed-wage index and supply-demand adjustment should be retained in the order, but should not become effective until their appropriate application has been decided based upon a further review of the pricing provisions. amendment here contemplated would provide for Class I prices only through June 1960. Further consideration of price adjustment mechanisms would be appropriate when extension of pricing provisions is undertaken.

It is concluded that it is not necessary to have seasonal adjustments of the Class I price. Producer response to changes in market requirements has been adequate without such price adjustments. Other markets in Florida do not have seasonal price adjustments.

5. Plants where other Federal orders may apply. The application of pooling provisions or exemption therefrom in the case of a plant where all the milk handled may be subject to classification, prices and pooling as producer milk under the terms of another order, should be a matter for Secretarial determination for each such plant. Classification of milk received at a pool plant from unregulated plants handling Federal order milk and other milk should depend on the amount of unpriced milk in the unregulated plant.

The producer association proposed that a plant shipping milk to plants in this market should be exempted from pooling if all the milk in the plant were classified, priced and pooled under another order. The association witness pointed out that because of the great seasonal fluctuation in Class I sales in this market, there is need to obtain supplemental milk from nonproducer sources. Much of this supplemental supply in recent months has come from plants handling reserve supplies for other Federal order markets. The dairy farmers who produced such milk are primarily engaged in supplying their local market. In one instance the shipping plant was a plant fully regulated under another Federal order, and in another instance the shipping plant was not subject to order regulation but handled milk diverted from regulated plants. The producer association in the Southeastern Florida market requested that order provisions not require the pooling of the second type of plant, because it is unnecessary, would disturb the regular pooling operation, and disturb producer bases in this and other markets.

A plant shipping to pool plants in this market becomes a pool plant in any of the months of December-March if such shipments amount to 50 percent or more of its dairy farmer receipts. The corresponding percentage requirement is 40 percent in the months of April through November,

Under § 1018.61, the pool status of a shipping plant which also qualifies under another Federal order as a pool plant is a matter subject to determination by the Secretary. The proposal by the producer association goes beyond this pro-

termination of pool status to a plant which is not a fully-regulated plant under another order.

Plants which handle diverted reserve milk for other Federal order markets are likely to have their primary business elsewhere than in the Southeastern Florida marketing area. The nearest other Federal order market is about 800 miles distant. If such a plant is not a fullyregulated plant under the other order, but all the milk handled at the plant would be subject to classification and pricing as producer milk under the terms of the other order if exempted from this order, there is then assurance against disruption of the pricing system in the Southeastern Florida market by reason of shipments from such plant. Under such circumstances it is suitable that the pool status of such plant be subject to Secretarial determination, and the order should so provide. The existence of any unpriced milk in a plant not regulated by another order, however, would require that such plant be subject to this order.

Because of the possibility that a plant may handle diverted reserve milk for more than one Federal order market. which under some orders would allow duplication of credit for lower-class uses, and because the precise effect of classification provisions of any other order or combinations of orders cannot be foreseen, this order should provide that the possible exemption from pooling will not apply unless all milk and skim milk disposed of from the plant is accounted for under some order(s) as Class I milk.

Any plant exempted from pooling pursuant to Secretarial determination should be subject to reporting requirements as described in § 1018.30 and § 1018.61. Prompt reporting is essential to proper computation of the marketwide pool for payment to regular pro-

The provisions of § 1018.61(a) which apply to a plant which may be regulated under another order should be modified to indicate the intention that the possible exemption from this order by Secretarial determination would apply only to plants which would be fully regulated under another order.

The problem was raised on the record as to proper allocation of milk received at a pool plant from a plant not regulated under any order which, nevertheless, handles both milk priced under another order as producer milk as well as milk not subject to any Federal order price regulation. The allocation procedure under this order should assure that producer milk is given priority over any unpriced milk which may come from such a source. This may be accomplished by allocating milk from such plants in the same way as any other milk from unpriced sources, up to the volume of unpriced milk or skim milk disposed of by such unregulated plant. This is necessary partly because of the provision commonly in other Federal orders that transfers and diversions to unregulated plants may be assigned to the lowest equivalent use in the unregulated plant; and also because the presence of unpriced milk in the unregulated plant up ket makes it impossible to identify such shipments with the milk in the plant subject to pricing as producer milk under the other order.

6. Administrative expense. The administrative expense charged to operators of nonpool plants should be changed to more nearly reflect the actual cost of verification and auditing which the market administrator must carry out.

It was suggested by the producer association that the application of charges for administrative expense be reviewed so as to have an equitable application of administrative expense to all handlers including operators of nonpool plants.

Under the current order provisions, charges for administrative expense are made to operators of pool plants on producer milk received and other source milk allocated to Class I pursuant to § 1018.45 (a) (2) and (b). The charge for administrative expense to operators of nonpool plants is based on the amount of Class I milk disposed of on routes in the marketing area.

Since the inception of the Federal order for this area the amount of Class I sales by certain nonpool plants into the marketing area has not proportionately reflected the expense involved for the market administrator in verifying such disposition and, where necessary, to audit the complete operations of the nonpool plant. If the operator of a nonpool plant elects to have his obligation computed pursuant to § 1018.62(b), which is based on the difference between the value of the milk in the plant as if the plant were a pool plant as compared to the gross payments made by the operator to dairy farmers, verification by the market administrator requires complete audit of the plant's operations. The auditing work involved is similar to that required in the case of a pool plant. It is concluded, therefore, that the charge for administrative expense against operators who elect to have their obligation computed pursuant to § 1018.62(b) should be as nearly similar as possible to the charges against pool plants. Since nonpool plants do not receive producer milk the administrative expense should be charged against receipts at the nonpool plant from dairy farmers and against any additional volumes which are used for Class T.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said prevision in applying the Secretarial de- to the amount of shipments to this mar- vious findings and determinations are

hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest: and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement regulating the handling of milk in the southeastern Florida marketing area", and "Order amending the Order regulating the handling of milk in the southeastern Florida marketing area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of October 1958 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Southeastern Florida marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within scribe, with respect to butterfat and the aforesaid marketing area.

Issued at Washington, D.C., this 24th day of February 1959.

CLARENCE L. MILLER. [SEAL] Assistant Secretary.

Order 1 Amending the Order Regulating the Handling of Milk in the Southeastern Florida Marketing Area

§ 1018.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeastern Florida marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may preskim milk pursuant to § 1018.86.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Southeastern Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 1018.7, Producer, and substitute the following:

§ 1018.7 Producer.

"Producer" means any person, except a producer-handler, who produces milk (as described in § 1018.63) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the United States Government located in the marketing area for fluid consumption), which milk is received at pool plants (a) on eight or more days during the month, or (b) on less than eight days during the month if such person was a producer pursuant to paragraph (a) of this section during the preceding month.

2. In § 1018.11, delete paragraph (a) and the language preceding paragraph (a), and substitute the following:

§ 1018.11 Pool plant.

"Pool plant" means a plant described under paragraphs (a) or (b) of this section which is not a plant operated by a dairy farmer in his capacity as a producer-handler, is not determined to be a nonpool plant pursuant to § 1018.61, and is not a facility described in paragraph (c) of this section:

(a) A plant at which the total Class I milk during the month is equal to not less than 50 percent of the receipts at the plant during the month of milk from dairy farmers who meet the inspection requirements pursuant to § 1018.7 and other receipts in the form of milk products designated as Class I milk pursuant to § 1018.41(a) and from which an amount of Class I milk equal to not less than 20 percent of such receipts is disposed of during the month in the marketing area on routes;.

§ 1018.41 [Amendment]

- 3. In § 1018.41, delete paragraphs (a) (1) and (b) (3) and substitute the following:
- (1) Disposed of from the plant in the form of milk, skim milk, frozen milk (whole or concentrated), concentrated milk, reconstituted milk, chocolate milk, fortified skim milk up to the weight of an equal volume of unmodified skim milk, and fortified milk up to the weight of an equal volume of unmodified milk of the same butterfat test, and.
- (3) That portion of fortified milk or skim milk not classified as Class I milk pursuant to subparagraph (a) (1) of this section; and

¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been

§ 1018.50 [Amendment]

4. In § 1018.50, delete paragraphs (a), (b), (c), (d), and (e) and substitute the following:

(a) Class I milk price. The price for Class I milk shall be \$7.00 per hundredweight for each of the months of the period beginning with March 1959 and through and ending with June 1960: Provided, That there shall be added to this price any amount by which the price pursuant to paragraph (b) of this section exceeds \$7.25; and there shall be subtracted any amount by which the price pursuant to paragraph (b) of this section is less than \$6.75;

(b) To the highest of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph, add \$3.50:

(1) To the average of the basic field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the preceding month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., Mount Pleasant, Mich. Carnation Co., Mount Fleasant, Mich.
Pet Milk Co., Sparte, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis. Carnation Co., Richland Center, Wis. Carnation Co., Oconomowoc, Wis. Pet Milk Co., New Glarus, Wis. Pet Milk Co., Bellesville, Wis. White House Milk Co., Manitowoc, Wis. White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the Chicago butter price for the period ending with the 25th day of the preced-

ing month by 0.625; and

(2) The price per hundredweight computed as follows: Multiply the Chicago butter price for the preceding month by 4.0, add 20 percent thereof, and add to such sum 7.5 times the amount by which the Chicago powder price for the preceding month exceeds 5 cents:

(c) The market administrator shall calculate a feed-wage price adjustment as set forth in subparagraphs (1), (2), (3), and (4) of this paragraph, but such adjustment shall not be effective in the period March 1959 through June 1960:

(1) Compute a feed price index by (i) dividing the latest per hundredweight monthly price for 20 percent dairy ration in the marketing area as reported by the Federal State Crop Reporting Service by 3.82 and multiplying by 50, (ii) dividing the latest per hundredweight monthly price for citrus pulp feed in the marketing area as reported by the Federal State Crop Reporting Service by 2.28 and multiplying by 50, and (iii) adding the results of the computations pursuant to sudvidisions (i) and (ii) of this subparagraph:

(2) Compute a weekly wage rate index by dividing the average of the weekly wage rate for industrial workers in Dade County for the latest month for which such data is available as furnished by the Florida Industrial Commission by

63.18 and multiply by 100;

(3) Multiply the result pursuant to subparagraph (1) of this paragraph by 0.6 and the result pursuant to subparagraph (2) of this paragraph by 0.4, add the resulting amounts, and round the total to the nearest whole number, which rounded total shall be known as the feedwage index; and

(4) Calculate a feed-wage price adjustment as follows: From the feed-wage index subtract 100, and multiply the result by 4.5 cents, such result to be considered as a negative amount if the feed-wage index is less than 100;

(d) The market administrator shall calculate a supply-demand adjustment each month as set forth in subparagraphs (1), (2) and (3) of this paragraph, but such adjustment shall not be effective in the period March 1959 through June 1960:

(1) Calculate the percentage that producer milk in the second preceding month is of the Class I milk in pool plants in the same month, round the figure to the nearest full percent, and determine the amount by which this result is less than the minimum, or greater than the maximum, percentage indicated for the month in the table in subparagraph (4) of this paragraph;

(2) Calculate the percentage that producer milk in the third preceding month is of the Class I milk in pool plants in the same month, round the figure to the nearest full percent, and determine the amount by which this result is less than the minimum, or greater than the maximum, percentage indicated for the month in the table in subparagraph (4)

of this paragraph;

(3) If both rounded percentages pursuant to subparagraphs (1) and (2) of this paragraph are less than the applicable minimums, add 4 cents times the smallest of the differences between the rounded percentages and the applicable minimums, and if both rounded percentages pursuant to subparagraphs (1) and (2) of this paragraph are more than the applicable maximums, subtract 4 cents times the smallest of the differand the applicable maximums; and

Month in which milk received	Mini- mum per- centage	Maxi- mum per- centage
August, September, October, November, December, Janu- ary, February March, April, May, June, July.	106 110	111 115

(e) Class II milk price. The Class II price per hundredweight shall be computed by adding together the values of subparagraphs (1) and (2) of this paragraph:

(1) Multiply the Chicago butter price by 1.25, add 4 cents and multiply the result by 4; and

der price and multiply the result by 8.5.

(2) Add 2.5 cents to the Chicago pow-

§ 1018.52 [Amendment]

5. In § 1018.52, delete paragraph (a) and substitute the following:

(a) Except as provided in paragraph (b) of this section, the rate of compensa-

tory payment per hundredweight to be paid by pool plants, or by nonpool plants pursuant to § 1018.62(a) shall be calculated as follows: (1) If the milk is received from farmers at a pool plant or nonpool plant within the State of Florida, subtract the Class II price from the Class I price adjusted by the Class I location differential at such plant; or (2) if the milk is received from farmers at a pool plant or nonpool plant outside the State of Florida, subtract the price pursuant to § 1018.50(b)(2) from the Class I price adjusted for the Class I location differential at such plant:.

6. Delete § 1018.61 and substitute the following:

§ 1018.61 Plants where other Federal orders may apply.

Upon determination by the Secretary pursuant to this section, any plant specified in paragraphs (a), (b) and (c) of this section shall be a nonpool plant, except that the operator of such plant shall, with respect to the total receipts and disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) Any plant meeting the requirements of a pool plant pursuant to § 1018.11(b) but not pursuant to § 1018.11 (a) which, if it were not a pool plant under this part, would be fully subject to the classification and pooling provisions of another order issued pursuant to the

· (b) Any plant meeting the requirements of a pool plant pursuant to § 1018.11(b) but not pursuant to § 1018.11(a) at which all receipts of skim milk and butterfat during the month would be priced and pooled under the terms of another order(s) issued pursuant to the Act if such plant were not a pool plant under this order: Provided, That such pricing and pooling results in all skim milk and butterfat disposed ences between the rounded percentages of from the plant in the form of milk and skim milk during the month being Class I milk under the terms of another order(s) issued pursuant to the Act; and

(c) Any plant which does not dispose of a greater volume of Class I milk on routes in the southeastern Florida marketing area than in the marketing area regulated pursuant to such other order.

7. Under the centerhead "Application of Provisions", insert a new § 1018.63 as follows:

§ 1018.63 Person producing milk.

The person who produces milk shall be considered to be the person who is responsible for the milk production enterprise on a continuing basis as to management and risk.

§ 1018.70 [Amendment]

8. Delete § 1018.70(b) and substitute the following:

(b) Add an amount computed by multiplying the pounds of any overage deducted from either class pursuant to § 1018.45(a) (7), and (b) by the applicable class price adjusted by the butterfat differential specified in § 1018.73;.

§ 1018.86 [Amendment]

- 9. In § 1018.86, delete paragraph (c) and the proviso, and insert new paragraphs (c), (d) and (e) as follows:
- (c) Class I milk disposed of on routes in the marketing area from a nonpool plant for which the obligation to the producer-settlement fund is determined pursuant to § 1018.62(a);

(d) Receipts of milk from dairy farmers, or total Class I milk, whichever is greater, at a nonpool plant which elects to have its obligation computed pursuant

to § 1018.62(b); and

(e) With respect to payments pursuant to paragraphs (a), (b), (c), and (d) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

§ 1018.45 [Amendment]

- 10. In § 1018.45(a), delete subparagraphs (2) and (3) and substitute the following:
- (2) Subtract from the pounds of skim milk remaining in Class II the pounds of skim milk in other source milk not to be subtracted pursuant to subparagraph (3) of this section: Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;
- (3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which is priced and pooled as Class I milk under another order except any quantities from a nonpool plant equal to or less than the skim milk in milk or skim milk disposed of from such nonpool plant and not priced and pooled under such other order: Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;.

[F.R. Doc. 59-1752; Filed, Feb. 26, 1959; 8:46 a.m.]

[9 CFR Part 201]

REGULATIONS UNDER PACKERS AND STOCKYARDS ACT

Notice of Proposed Rule Making

Notice is hereby given, in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003), that the Agricultural Marketing Service is considering the amendment, as hereinafter stated, of the regulations in 9 CFR Part 201, pursuant to the authority contained in the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.).

The proposed amendments are as follows:

§§ 201.2, 201.7, 201.79, 201.90–201.92 [Amendment]

1. The word "Posted" or "posted" would be deleted in §§ 201.2(o), 201.7, 201.79, 201.90, 201.91 and 201.92,

§§ 201.5, 201.6 [Amendment]

2. Sections' 201.5 and 201.6 would be amended by deleting the word "registered" and inserting in lieu thereof the word "certified."

§ 201.10 [Amendment]

3a. Paragraph (a) of § 201.10 would be amended to read as follows:

- (a) Every person operating or desiring to operate as a market agency or dealer as defined in section 301 of the Act shall apply for registration under the Act by filing, on forms which will be supplied by the Chief or any District Supervisor on request, a properly executed application containing all the information required by such forms, and shall, concurrently with the filing of such application, file the bond required in § 201.29.
- b. Paragraph (c) of § 201.10 would be amended by deleting therefrom the words "at posted stockyards."

§§ 201.17, 201.19-201.21, 201.26 [Amendment]

4. The words "operating at a stockyard" would be added after the words "market agencies" in the head note of § 201.17 and after the words "market agency" or "market agencies" wherever such words first appear in the body of §§ 201.17, 201.19, 201.20, 201.21 and 201.26.

§ 201.29 [Amendment]

5. The first sentence of § 201.29 would be amended to read as follows: "Every market agency and dealer, except packer buyers registered as dealers to purchase livestock for slaughter only, shall, on or before the date of commencement of operations, execute and thereafter maintain, or cause to be executed and thereafter maintained, a reasonable bond, to a suitable trustee, to secure the performance of obligations incurred as such market agency or dealer: Provided, That the only bond equivalent that may be filed by an applicant for registration to operate as a market agency selling livestock on an agency basis and, with the exception of those bond equivalents which were in effect on September 1, 1957, the only bond equivalent that may be filed or maintained by a market agency selling livestock on an agency basis shall be one representing a pledge of fully negotiable bonds of the United States Government."

§ 201.30 [Amendment]

6. The first and the third sentences of § 201.30 would be amended by deleting therefrom the words "at posted stockyards or, in the absence of segregated records, all sales and purchases,'

§ 201.31 [Amendment]

7. The words "at a public stockyard as defined in the Packers and Stockyards Act" would be deleted wherever they appear in § 201.31.

§§ 201.46, 201.50, 201.53, 201.94-201.96 [Amendment]

8. The words "market agencies, dealwould be substituted for the word ers" "registrants" wherever the latter appears in §§ 201.46, 201.94, 201.95 and 201.96; the words "market agency or dealer" would be substituted for the word "registrant" in § 201.46; and the words "market agency, dealer" would be substituted for the word "registrant" wherever the latter appears in §§ 201.50. 201.53, 201.94, 201.95 and 201.96.

§ 201.49 [Amendment]

9. Section 201.49 would be amended by deleting the word "posted" in the fourth sentence thereof; by adding after the fourth sentence thereof a new sentence reading as follows: "At other locations only registrants or packers shall weigh livestock in commerce and execute and issue scale tickets therefor.": and by deleting the words "market agency" from the present seventh sentence thereof and inserting in lieu thereof the word "registrant."

§ 201.54 [Amendment]

10. Paragraph (a) of § 201.54 would be amended by deleting the words "or market agency" and "market agency" and substituting in lieu thereof the words "market agency, dealer."

§ 201.55 [Amendment]

- 11. Section 201.55 would be amended by deleting the words "stockyard scales" and substituting in lieu thereof the words "scales operated by stockyard owners, registrants or packers."
- 12. Section 201.63 would be amended to read as follows:

§ 201.63 Consignments; when not to be solicited or intercepted.

No packer, market agency, dealer or licensee shall solicit or intercept consignments of livestock or live poultry at or on stockyard premises or in designated areas or after such livestock or poultry has been billed or consigned to a packer, market agency, dealer or licensee and is in course of transportation for delivery to the consignee.

§ 201.67 [Amendment]

Section 201.67 would be amended by deleting the words "registered to sell livestock at posted stockyards" and inserting in lieu thereof the words "selling livestock."

§ 201.68 [Amendment]

14. Section 201.68 would be amended by deleting the words "registered to purchase livestock at posted stockyards" and inserting in lieu thereof the words "purchasing livestock."

§ 201.69 [Amendment]

15. Section 201.69 would be amended by deleting the words "order buyer" and inserting in lieu thereof the words "market agency", and by deleting the words "order buyers" and inserting in lieu thereof the words "market agencies."

16. Section 201.70 would be amended to read as follows:

§ 201.70 Restriction or limitation of competition between packers and dealers prohibited.

Each packer and dealer engaged in purchasing livestock in person or through employed buyers, shall conduct his buying operations in competition with, and independently of, other packers and dealers similarly engaged.

17. Section 201.71 would be amended to read as follows:

§ 201.71 Accurate weights.

Each stockyard owner, registrant, or licensee who weighs livestock or live poultry shall install, maintain, and operate the scales used for such weighing so as to insure accurate weights.

18. Section 201.72 would be amended to read as follows:

§ 201.72 Scales; testing of.

Each stockyard owner, registrant, or licensee who weighs livestock or live poultry for purposes of purchase or sale or who furnishes scales for such purposes shall cause such scales to be tested properly by competent agencies at suitable intervals in accordance with instructions of the Chief, copies of which will be furnished to each stockyard owner, registrant, or licensee.

§ 201.73 [Amendment]

19. The first sentence of § 201.73 would be amended to read as follows: "Stockyard owners, registrants, and licensees shall employ only competent persons of good character and known integrity to operate scales for weighing livestock or live poultry for the purpose of purchase or sale.", and the second sentence would be amended by deleting the words "market agency" and inserting in lieu thereofthe word "registrant."

§ 201.74 [Amendment]

20. The first sentence of § 201.74 would be amended to read as follows: "Each stockyard owner, registrant, or licensee who weighs livestock or live poultry for purposes of purchase or sale, shall furnish reports of tests and inspections of scales used for such purposes on forms which will be furnished by the Chief on request.", and the second sentence of such section would be amended by de-leting the words "market agency" and inserting in lieu thereof the word "registrant.'

§ 201.75 [Amendment]

21. The first sentence of § 201.75 would be amended to read as follows: "No scale shall be used by any stockyard owner, registrant, or licensee unless it has been found upon test and inspection to be in a condition to give accurate weights."

22. Section 201.76 would be amended to read as follows:

§ 201.76 Reweighing.

Stockyard owners, registrants, packers, and licensees, or their employees, shall reweigh livestock or live poultry on request of duly authorized representatives of the Secretary.

23. Section 201.77 would be amended to read as follows:

§ 201.77 Weighing for purposes other than purchase or sale.

Every stockyard owner, registrant, packer, and licensee who weighs livestock or live poultry for purposes other than purchase or sale shall show on the scale tickets or other records used in connection with such weights the fact that they are not weights for the purpose of purchase or sale.

§ 201.79 [Amendment]

24. The first sentence of paragraph (b) of § 201.79 would be amended to read as follows: "Each person registering to operate as a market agency or dealer shall, before commencing or engaging in the business for which he is registered, receive assurance of the use of pens and facilities necessary in the conduct of his business."

25. Section 201.81 would be amended to read as follows:

§ 201.81 Suspended or revoked registrants or licensees.

No stockyard owner, packer, market agency, dealer, or licensee shall, after notice, employ any person whose registration or license has been suspended or revoked to perform activities at a stockyard or in a designated area, or activities of the same general nature as those in which he was engaged at the time his registration or license was suspended or revoked, during the period of such suspension or revocation. No stockyard owner, packer, market agency, dealer, or c licensee shall, after notice, furnish services or facilities or sell livestock or live poultry to or buy livestock or live poultry from any person required by the act and these regulations to be registered and bonded, or licensed, who is not so registered and bonded, or licensed, or whose registration or license is suspended or

26. Section 201.82 would be amended to read as follows:

§ 201.82 Livestock; care and promptness in yarding, feeding, watering, weighing, and handling.

Each stockyard owner, packer, market agency or dealer, in connection with transactions in which another person has an interest, shall exercise reasonable care and promptness in respect to yarding, feeding, watering, weighing, or otherwise handling livestock to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.

27. Section 201.84 would be amended to read as follows:

§ 201.84 Feed and water furnished livestock or live poultry.

Each stockyard owner, market agency, dealer, or licensee, who furnishes feed or water to livestock or live poultry shall see that it is wholesome and fit for the purpose. Such stockyard owner, market agency, dealer, or licensee shall collect for feed so furnished according to actual or carefully estimated weight only, and, where applicable, in accordance with such schedules of rates and charges as

are filed by them and effective under the

§ 201.97 [Amendment]

28. Section 201.97 would be amended by deleting the words "market agency, dealer" and inserting in lieu thereof the word "registrant."

The purpose of the proposed amendments is to make changes in the regulations required or contemplated by the amendments of the Packers and Stockyards Act, 1921, as amended, made by Act of Congress approved September 2, 1958 (Pub. Law 85-909), and to make certain other non-substantive changes in such regulations.

Any person who wishes to submit written data, views, or arguments concerning any of the proposed changes may do so by filing them with the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within thirty days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of February 1959.

[SEAL] ROY W. LENNARTSON, Deputy Administrator, Agricultural Marketing Service.

[F.R. Doc. 59-1723; Filed, Feb. 26, 1959; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDU-CATION. AND WELFARE

Food and Drug Administration

['21' CFR Part 130]

DRUGS EXEMPTED FROM PRESCRIP-TION-DISPENSING REQUIREMENTS OF SECTION 503(b)(1)(C) OF FED-ERAL FOOD, DRUG, AND COS-METIC ACT

Certain N-Acetyl-p-Aminophenol (p-Hydroxy-Acetanilid) Preparations

Notice is given that the Commissioner of Food and Drugs, in accordance with the Federal Food, Drug, and Cosmetic Act (secs. 503(b)(3), 505(c), 701(a); 65 Stat. 649, 52 Stat. 1052, 1055; 21 U.S.C. 353(b) (3), 355(c), 371(a)) and the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR, 1957 Supp., 130.101(b)) hereby offers an opportunity to all interested persons to submit their views in writing to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., within 30 days from the date of publication of this notice in the Federal Register on the proposed amendments set forth below:

It is proposed to change § 130.102 (a) (1) (iv), (vi), and (vii) (21 CFR, 1957 Supp., 130.102; 23 F.R. 8285) to read as set forth below:

§ 130.102 Exemption for certain drugs limited by new-drug applications to prescription sale.

_(a) * *\ *

(1) * * *

(iv) The preparation contains not more than 0.325 gram (5 grains) of *N*-acetyl-*p*-aminophenol per dosage unit, or if it is in liquid form not more than 100 milligrams of *N*-acetyl-*p*-aminophenol per milliliter.

(vi) The dosages of N-acetyl-p-aminophenol recommended or suggested in the labeling do not exceed: For adults, 0.65 gram (10 grains) per dose or 2.6 grams (40 grains) per 24-hour period; for children 6 to 12 years of age, one-half of the maximum adult dose or dosage; for children 3 to 6 years of age, one-fifth of the maximum adult dose or dosage.

(vii) The labeling bears, in juxtaposition with the dosage recommendations, a clear warning statement against administration of the drug to children under 3 years of age and against use of the drug for more than 10 days, unless such uses are directed by a physician.

The proposed amendment will remove certain drugs mentioned therein from the prescription-dispensing requirements of the Federal Food, Drug, and Cosmetic Act (sec. 503(b) (1) (C), 52 Stat. 1052, 65 Stat. 649; 21 U.S.C. 353(b) (1) (C)). These drugs were previously limited by their new-drug applications to use under professional supervision because the scientific data establishing the toxic poten-

tial of the drugs and their intended use showed only that they were safe if used under professional supervision.

Pursuant to the regulations in \$130.101(b) of this chapter (21 CFR, 1957 Supp., 130.101(b)), petitions have been submitted to remove the prescription restrictions from these drugs. Evidence now available through investigation and marketing experience shows that the drugs can be safely used by the laity in self-medication if they are used in accordance with the proposed labeling. The restriction to prescription sale is no longer necessary for the protection of the public health.

This action in removing the prior restriction limiting these drugs to prescription sale is taken under the authority of the Federal Food, Drug, and Cosmetic Act (secs. 503(b)(3), 505(c), 52 Stat. 1052, 65 Stat. 649; 21 U.S.C. 353(b)(3), 355(c)), which provides for and requires the removal of such restrictions if they are not necessary for the protection of the public health.

Dated: February 20, 1959.

[SEAL]

JOHN L. HARVEY, Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59-1729; Filed, Feb. 26, 1959; 8:51 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

VALENCIA TYPE PEANUTS

Supply for 1959-60 Marketing Year

Pursuant to section 358(c) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1358(c)), the Secretary of Agriculture is preparing to determine whether the supply of Valencia type peanuts for the 1959-60 marketing year will be insufficient to meet the estimated demand for cleaning and shelling purposes. Section 358(c) of the Act, as amended, reads in part as follows:

Notwithstanding any other provision of law, if the Secretary of Agriculture determines, on the basis of the average yield per acre of peanuts by types during the preceding five years, adjusted for trends in yields and abnormal conditions of production affecting yields in such five years, that the supply of any type or types of peanuts for any marketing year, beginning with the 1951-52 marketing year, will be insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it, the State allotments for those States producing such type or types of peanuts shall be increased to the extent determined by the Secretary to be required to meet such demand but the allotment for any State may not be increased under this provision above the 1947 harvested acreage of peanuts for such State. The total increase so determined shall be apportioned among such States for distribution among farms producing peanuts of such type or types on the basis of the average acreage of peanuts of such type or types in the three years immediately preceding the year for which the allotments are being determined. The additional acreage so required shall be in addition to the national acreage allotment, the production from such acreage shall be in addition to the national marketing quota, and the increase in acreage allotted under this provision shall not be considered in establishing future State, county, or farm acreage allotments.

Prior to determining whether the supply of Valencia type peanuts for the 1959–60 marketing year will be insufficient to meet the estimated demand for cleaning and shelling, consideration will be given to any data, views and recom-mendations relating thereto which are presented at a hearing to be held on Wednesday, March 11, 1959, at 9:30 a.m., e.s.t., Room 124E, Administration Build-U.S. Department of Agriculture, Washington, D.C., or which are submitted in writing to the Director, Oils and Peanut Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D.C. All written submissions must be postmarked not later than March 18, 1959.

Done at Washington, D.C., this 25th day of February 1959.

[SEAL] FOREST W. BEALL,
Acting Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59-1763; Filed, Feb. 26, 1959; 8:52 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1959. Supp. 201]

NORTHEASTERN INSURANCE CO. OF HARTFORD

Acceptable Reinsuring Company on Federal Bonds

FEBRUARY 20, 1959.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company as a reinsuring company only on Federal bonds under Treasury Department Circular No. 297, July 15, 1922, as amended, 31 CFR 223. An underwriting limitation of \$399, 00.00 has been established for the company.

Name of Company, Location of Principal Executive Office and State in Which Incorporated

Northeastern Insurance Company of Hartford, Connecticut: Des Moines, Iowa.

[SEAL] Julian B. Baird,
Acting Secretary of the Treasury.

[F.R. Doc. 59-1727; Filed, Feb. 26, 1959; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW · MEXICO

Small Tract Classification No. 52; Cancellation

Pursuant to authority delegated to me by Bureau Order No. 54, dated April 21, 1954 (19 F.R. 2473), I hereby cancel Classification Order No. 52, Small Tract, New Mexico, appearing in 24 F.R. 1219, dated February 17, 1959.

> E. R. SMITH, State Supervisor.

[F.R. Doc. 59-1707; Filed, Feb. 26, 1959; 8:48 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Indian Affairs has filed an application, Serial Number A.044128 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the mining and mineral leasing laws. The applicant desires the land for an addition to a school reserve.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Anchorage Operations Office, Mailing: 334 East Fifth Avenue, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

NOTICES

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice willbe sent to each interested party of record.

The lands involved in the application are:

PERRYVILLE AREA

Beginning at Corner No. 2 M.C., U.S. Survey 2040; thence N. 3°10' E. 660 feet along Line 2-3 of Survey 2040 to the true point of be-ginning; thence N. 36°50' W. 200.00 feet to a point; thence N. 3°10' E. 200.00 feet to a point; thence S. 86°50' E. 200.00 feet to a point on Line 3-2 of Survey 2040; thence S. 3°10' W. 200.00 feet along line 3-2 to the point of beginning.

Containing approximately 0.92 acres.

L. T. MAIN, Operations Supervisor, Anchorage.

[F.R. Doc. 59-1708; Filed, Feb. 26, 1959; 8:48 a.m.]

[Utah (I-17)]

UTAH

Notice of Proposed Withdrawal and T. 2 N., R. 11 W., Reservation of Lands

FEBRUARY 18, 1959.

The Federal Aviation Agency has filed an application, Serial No. Utah 029290, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral léasing laws. The applicant desires the land for the establishment of a VORTAC facility.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Post Office Box No. 777, Salt Lake City 10, Utah.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the Federal Register. A separate notice will be sent to each interested party of record.

The lands involved in the application

SALT LAKE MERIDIAN, UTAH

T. 29 S., R. 24 E.,

Sec. 22: E. 400' of S1/2SW1/4, S1/2SE1/4; Sec. 27: E. 400' of N%NW14, N12NE14, N. 200' of S1/2 NE1/4.

The above area aggregates 200 acres. more or less.

> VAL B. RICHMAN. State Supervisor.

[F.R. Doc. 59-1709; Filed, Feb. 26, 1959; 8:48 a.m.]

ALASKA .

Notice of Filing of Plat of Survey and Order Providing for Opening of **Public Lands**

FEBRUARY 20, 1959.

1. Plat of survey of the lands described below will be officially filed in the An-

chorage Land Office, Anchorage, Alaska effective at 10:00 a.m., April 6, 1959.

SEWARD MERIDIAN

T. 2 N., R. 11 W., Sec. 5, All.

Sec. 6, All.

Sec. 7, All. Sec. 8, All.

Sec. 17, All.

Sec. 18, All.

Comprising 3,656.28 acres.

2. The lands are located in the Ninilchik-Kasilof, Alaska, Area. A portion of the land is traversed by the Sterling Highway. The land is generally rolling countryside with some poorly drained areas. The vegetative cover is a mixed stand of spruce, cottonwood, some aspen and birch. A part of the area may be suitable to agricultural use.

3. The following lands lie within the boundaries of the Kenai National Moose Range, as established by Executive Order No. 8979, dated December 16, 1941, and are not subject to any form of appropriation under the public land laws, including the mining and mineral leasing laws:

SEWARD MERIDIAN

sec. 5, se¼, s½ne¼, ne¼ne¼, s½sw¼, ne¼sw¼.

Sec. 7, E1/2E1/2.

Sec. 8, All.

Sec. 17, All.

Sec. 18, E1/2 E1/2.

Comprising 1,949.67 acres.

4. The following lands were withdrawn by PLO-1723 dated August 19, 1958 from all forms of appropriation under the public land laws including the mining but not the mineral leasing laws nor disposals under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604) as amended; and reserved under the jurisdiction of the Secretary of the Interior for administration and maintenance as public recreation areas pending their conveyance or other disposal as authorized by the Act of May 4, 1956, as amended by the Act of August 30, 1957 (71 Stat. 510):

SEWARD MERIDIAN

T. 2 N., R. 11 W., Sec. 6, W1/2.

Comprising 213.54 acres.

5. Subject to valid existing rights and the requirements of applicable law, the remaining lands as set out below, are hereby opened to the filing of applications, locations and selections in the order of priority indicated:

SEWARD MERIDIAN

T. 2 N., R. 11 W.,

Sec. 5, NW1/4, NW1/4NE1/4, NW1/4SW1/4.

Sec. 6, E½. Sec. 7, W½, W½E½.

Sec. 18, W1/2, W1/2E1/2.

Comprising 1,493.07 acres.

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager, Anchorage Land Office, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and

respective dates shown for the various classes enumerated in the following

paragraph:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Alaska Homesite, and Petitions for Small Tracts by qualified veterans of World War II, or of the Korean conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284 as amended), presented prior to 10:00 a.m., on April 6, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m., on July 5, 1959, will be governed by time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those mentioned under paragraphs (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m., on July 5, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a.m., on July 5, 1959.

6. Persons claiming veterans' preference rights under paragraph a(2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

7. Applications for these lands, which shall be filed in the Land Office at Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent such regulations are applicable. Applications under the homestead and homesite laws shall be governed by the regulations contained in Parts 64, 65, and 166 of Title 43 of the Code of Federal Regulations.

8. Inquiries concerning these lands shall be addressed to the Manager, Anchorage Land Office, Anchorage, Alaska.

IRVING W. ANDERSON, . Manager. -

[F.R. Doc. 59-1710; Filed, Feb. 26, 1959; 8:48 a.m.]

[Document No. 202] [Classification No. 65]

ARIZONA

Small Tract Classification

- 1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F.R. 2473), I hereby classify the following described lands, totalling 80 acres in Pima County, Arizona, as suitable for lease and/or sale for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended:
- . GILA AND SALT RIVER MERIDIAN T. 15 S., R. 12 E. Sec. 7, S1/2 SE1/4.
- 2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.
- 3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean conflict and other qualified persons entitled to preference under the Act of September 27, 1944 (58 Stat. 497; 43 U.S.C. 279-284), as amended.
- There are no preference right applications filed under the provisions of 43 CFR 257.5(a).

Dated: February 17, 1959.

E. I. ROWLAND, State Supervisor.

[F.R. Doc. 59-1711; Filed, Feb. 26, 1959; 8:49 a.m.]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 18, 1959.

The United States Forest Service of the Department of Agriculture has filed an application, serial No. Colorado 025884 for withdrawal of the lands described below from location and entry under the General Mining Laws, subject to existing valid claims.

The applicant desires the lands for use as recreation areas within the Gunnison National Forest.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 339 New Custom House, P.O. Box 1018, Denver 1, Colorado.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The determination of the Secretary of the Interior on the application will be published in the Federal Register. A

separate notice will be sent to each interested party of record.

The lands involved in the application

NEW MEXICO AND SIXTH PRINCIPAL MERIDIANS, COLORADO

GUNNISON NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

Almont Recreation Area

T. 51 N., R. 1 E.

Sec. 23, $W\frac{1}{2}E\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$ and N1/2NW1/4SW1/4;

Sec. 27, SW1/SW1/4NW1/4, E1/2W1/2NW1/4, W1/2E1/2NW1/4, NE1/4NE1/4NW1/4 and NW1/4

NW 1/4 SW 1/4; Sec. 28, SE 1/4 SE 1/4 NE 1/4, N 1/2 NE 1/4 SE 1/4 and SW 1/4 NE 1/4 SE 1/4.

Copper Creek Recreation Area

T. 51 N., R. 1 E., Sec. 11, SE¼SW¼SE¼; Sec. 14, E1/2 W1/2 NE1/4 and W1/2 E1/2 NE1/4.

SIXTH PRINCIPAL MERIDIAN

Second Bridge Recreation Area

T. 15 S., R. 84 W., Sec. 31, SE¼SE¼SE¼; Sec. 32, SE¼SW¼NW¼, E½NE¼NW¼, SE¼NW¼, NW¼NE¾, N½NE¼NE¼, S½NW¼SW¼, NE¼NW¼SW¼, NW¼ NE¼SW¼ and SW¼SW¼.

Rosy Lane Recreation Area

T. 15 S., R. 84 W.

Sec. 13, SW 4/SE¹/4, SE¹/4 NE¹/4/SE¹/4, N¹/2/SE¹/4 SE¹/4, E¹/2/SE¹/4/SW¹/4, and SW 4/SE¹/4/SW¹/4; Sec. 23, NE¹/4/SE¹/4/NE¹/4, S¹/2/SE¹/4/NE¹/4, NW 1/4/SE¹/4 and NW 1/4/NE¹/4/SE¹/4; Sec. 24, NW 1/4/SW 1/4/NW 1/4, S¹/2/NW 1/4/NW 1/4,

NE¼NW¼NW¼ and NW¼NE¼NW¼.

Five Mile Recreation Area

T. 15 S., R. 83 W.,

Sec. 17, lots 2 and 3 and $W\frac{1}{2}NW\frac{1}{4}$; Sec. 18, lots 7 to 11, inclusive, and lots 13 to 16, inclusive, S½NE¼NE¼ and NE¼ NE¼NE¼.

One Mile Recreation Area

T. 15 S., R. 84 W.,

Sec. 22, 8½SE¼, S½NE¼SE¼ and S½ SE¼SW¼; Sec. 23, N½SW¼, N½S½SW¼ and SW¼

SW1/4SW1/4;

Sec. 27, N1/2 NE1/4 NW1/4.

Lodgepole Recreation Area

T. 15 S., R. 83 W.,

Sec. 9, S½SE¼NE¼ and NE¼SE¼; Sec. 10, NW¼NW¼SW¼, SW¼NW¼, SE¼ NW¼NW¼, S½NE¼NW¼ and N½SE¼ NW1/4.

Cold Spring Recreation Area

T. 15 S., R. 83 W.

Sec. 2, S1/251/5W1/4; Sec. 10, N1/2NE1/4 and NW1/4SW1/4NE1/4; Sec. 11, N1/2N1/2NW1/4 and SW1/4NW1/4NW1/4.

Lottis Creek Recreation Area

T. 15 S., R. 83 W.,

oc. 1, S½SW¼NW¼, N½SW¼SW¼, NW¼SW¼, W½NE¼SW¼ and NW¼ SE14SW14;

Sec. 2, $NW\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}$ SE14, SE14NE14SE14, NW14SW14SE14, N1/2 SE1/4 SW1/4, S1/2 NE1/4 SW1/4, NE1/4 NE1/4 SW1/4, S1/2S1/2NE1/4 except for parts of Taylor River No. 1 Placer Survey No. 13085.

Dorchester Recreation Area

T. 12 S., R. 83 W.,

Sec. 28, SW1/4SW1/4SE1/4;

Sec. 33, $W\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ and $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$.

Lake View Recreation Area

T. 14 S., R. 82 W.,

Sec. 19, SE 4 NE 4, E 4 SW 4 NE 4, E 12 NW 4 SE 4, N 2 NE 4 SE 4 and SW 4 NE 4 SE 4.

The above areas aggregate approximately 2,246.55 acres.

> J. ELLIOTT HALL. Lands and Minerals Officer.

[F.R. Doc. 59-1712; Filed, Feb. 26, 1959; 8:49 a.m.]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 18, 1959.

The United States Forest Service of the Department of Agriculture has filed an application, serial No. Colorado 024416, for withdrawal of the lands described below from location and entry under the General Mining Laws, subject to existing valid claims.

The applicant desires the lands for use as natural areas in Pike National Forest.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 339 New Custom House, P.O. Box 1018, Denver 1, Colorado.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The determination of the Secretary of the Interior on the application will be published in the FEDERAL REGISTER. separate notice will be sent to each interested party of record.

The lands involved in the application

SIXTH PRINCIPAL MERIDIAN, COLORADO

PIKE NATIONAL FOREST

Hurricane Canyon Natural Area

T. 13 S., R. 68 W.

Sec. 34, $E\frac{1}{2}NE\frac{1}{4}$; Sec. 35, $W\frac{1}{2}$, $W\frac{1}{2}SE\frac{1}{4}$ and $SE\frac{1}{4}SE\frac{1}{4}$.

Saddle Mountain Natural Area

T. 14 S., R. 72 W.,

Sec. 8, SE1/4 and E1/2 SW1/4; Sec. 17, NE1/4 and E1/2 NW1/4.

The above areas aggregate 1000 acres.

J. ELLIOTT HALL, Lands and Minerals Officer.

[F.R. Doc. 59-1713; Filed, Feb. 26, 1959; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce [Case No. 253]

PAN MARITIME CARGO SERVICE, INC.

Order Modifying Export Control **Denial Order**

In the matter of Pan Maritime Cargo Service, Inc., 232 Water Street, New York, New York, Respondent; Case No. 253.

1478

NOTICES

The respondent, Pan Maritime Cargo Service, Inc., having applied to the Compliance Commissioner for a modification of the export control denial order heretofore entered against it (24 F.R. 910, Feb. 6, 1959); and having submitted in support of said application substantial evidence showing (a) unusual problems and probable large damages to Latin American subsidiaries of American corporations not in any manner affiliated with the respondent and in no way connected with the violations herein, (b) probable disorganization of a large and complicated banking function conducted by it on behalf of a Latin American purchaser of goods from the United States, (c) consequential loss of employment by employees in no manner connected with the violations involved herein;

And the Compliance Commissioner having recommended that the respondent be given relief as hereinafter

provided:

Now, after consideration of the entire record herein and believing that it is consistent with achievement of effective enforcement of the law that the respondent be given some relief from the order heretofore entered herein:

It is hereby ordered, That Part II, Subdivision (a) of the denial order dated February 3, 1959, be and the same hereby is amended so that the same now reads:

The respondent Pan Maritime Cargo Service, Inc., for one month commencing March 16, 1959, is hereby denied all privileges of participating, directly or indirectly, in anymanner or capacity in any exportation by a means or manner other than air shipment of any commodity or technical data from the United States to any foreign destination, including Canada.

And it is further ordered, That, except as so amended, said order of February 3, 1959, be and continue in full force and effect according to its original content.

Dated: February 20, 1959.

JOHN C. BORTON, Director. Office of Export Supply.

[FR. Doc. 59-1726; Filed, Feb. 26, 1959; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-123]

THE CURATORS OF THE UNIVERSITY OF MISSOURI, SCHOOL OF MINES AND METALLURGY

Notice of Application for Utilization Facility License

Please take notice that on January 28, 1959, the Curators of the University of Missouri, School of Mines and Metallurgy, filed an application under section 104c of the Atomic Energy Act of 1954, for a license to construct and operate a pool-type nuclear reactor designed to operate at 10 killowatts and to be located on the University campus at Rolla, Missouri. A copy of the application is on file with the AEC Public Document Room located at 1717 H Street NW., Washington, D.C.

day of February 1959.

For the Atomic Energy Commission.

H. L. PRICE, Director, Division of Licensing and Regulation.

[F.R. Doc. 59-1684; Filed, Feb. 26, 1959; 8:45 a.m.]

[Docket No. 27-10]

NUCLEAR ENGINEERING CO., INC.

Notice of Issuance of Amendment to Byproduct, Source and Special **Nuclear Material License**

Please take notice that the Atomic Energy Commission has issued the following Amendment (No. 3) to License No. 4-3766-1 authorizing Nuclear Engineering Company, Inc. (1) to utilize, where applicable, the containers described in Bureau of Explosives Permit No. 686 in conducting intrastate transportation of low-level radioactive wastes as requested in its application for license amendment dated January 5, 1959, (2) to receive and dispose of waste material by or under the direct supervision of J. L. Harvey as requested in its application dated January 15, 1959, and (3) to modify Condition 6 of the license which concerns transportation requirements. The Commission has found that the use of such containers in accordance with the terms and conditions of the license as amended, Mr. Harvey's qualifications, and the modifications of Condition 6 are adequate to protect the health and safety of the public and to minimize danger of life and property.

The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the conduct of the authorized activities would not present any substantial changes affecting the health and safety of the public from those previously approved. In accord-ance with the Commission's Rules of Practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after the issuance of the license amendment. For further details, see the applications for license amendment submitted by Nuclear Engineering Company, Inc. which are on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 19th day of February 1959.

For the Atomic Energy Commission.

H. L. PRICE. Director, Division of Licensing and Regulation.

[License No. 4-3766-1 (160), Amdt. 3]

In accordance with application dated January 15, 1959 from Nuclear Engineering Company, Inc., Condition No. 3 of License No. 4-3766-1 is amended to read as follows:

3. Byproduct, source and special nuclear material shall be received and disposed of by or under the direct supervision of M. A.

Dated at Germantown, Md., this 19th

Schlesinger, J. L. Harvey, J. E. Law, Jr. or
J. S. Corbett. Byproduct, source and special nuclear materials shall be packaged only by or under the direct supervision of J. E. Law, Jr. or J. S. Corbett.

> In addition to the activities previously authorized by the Commission under License No. 4-3766-1, Nuclear Engineering Company, Inc. (hereinafter referred to as the "licensee") is authorized;

To utilize, where applicable, in intrastate transportation the containers described in Bureau of Explosives Permit No. 686, subject to all of the terms, conditions and limitations contained in the licensee's application to the Bureau of Explosives dated December 15, 1958, in the Bureau of Explosives Permit No. 686 dated December 19, 1958, and in the application for license amendment to the Commission dated January 5, 1959.

License Number 4-3766-1 is further amended to:

A. Delete the first paragraph of Condition 6 and to insert in lieu thereof the following paragraph:

6. "The transportation of AEC-licensed material to and from the location designated in Condition 7 shall be subject to the applicable regulations of the Interstate Commerce Commission, United States Coast Guard and other agencies of the United States having appropriate jurisdiction, and where such regulations are not applicable shall be in accordance with the following requirements except as specifically provided by the Atomic Energy Commission:" and

B. Amend Condition 6A(1)a to read as

a. 15A, 15B, 12B, 6A, 6B, 6C, 17C, 17H, 19A, or 19B for the containment of radioactivity in amounts not in excess of 2.7 curies, except polonium, 2 curies.

This amendment is effective as of the date of issuance.

Date of issuance:

For the Atomic Energy Commission.

H. L. PRICE. Director, Division of Licensing and Regulation.

[F.R. Doc. 59-1683; Filed, Feb. 26, 1959; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-338]

ACCIDENT OCCURRING AT MIAMI, FLA.

Notice of Hearing

In the matter of investigation of accident involving aircraft of United States Registry N 6240G, which occurred at Miami, Florida, January 17, 1959.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, particularly Title VII of said Act, in the aboveentitled proceeding that hearing is hereby assigned to be held on Tuesday, March 31, 1959, at 9:00 a.m. (local time) in the Carnation Room, Empress Hotel, 43d Street and Collins Avenue, Miami Beach, Florida.

Dated at Washington, D.C., February 19, 1959.

[SEAL] THOMAS K. McDILL, Presiding Officer.

[F.R. Doc. 59-1738; Filed, Feb. 26, 1959; 8:51 a.m.]

[File No. 1-2645]

F. L. JACOBS CO.

FEBRUARY 20, 1959.

BON AMI CO. Order Summarily Suspending Trading

SECURITIES AND EXCHANGE

COMMISSION

[File No. 1-685]

FEBRUARY 20, 1959.

I. The Class A and Class B common stocks of The Bon Ami Company are listed and registered on the New York Stock Exchange, a national securities exchange; and

II. The Commission on February 11, 1959 having issued its order and notice of hearing under section 19(a)(2) of the Securities Exchange Act of 1934 to determine at a hearing beginning March 23, 1959, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw the registration of the Class A and Class B common stocks of The Bon Ami Company on the New York Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations thereunder; and

The Commission on Feb. 11, 1959, having issued its order summarily suspending trading of said securities on the exchange pursuant to section 19(a)(4) of the Act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices fora period of ten days ending February 20, 1959; and

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, trading in the stock of The Bon Ami Company will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule 240.15c2-2 (17 CFR 240.15c2-2) there-Rule under for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19(a) (4) of the Securities Exchange Act of 1934 that trading in said common stocks on the New York Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, February 21, 1959, to March 2, 1959, inclusive.

By the Commission.

ORVAL L. DUBOIS, [SEAL] Secretary.

[F.R. Doc. 59-1717; Filed, Feb. 26, 1959; [F.R. Doc. 59-1718; Filed, Feb. 26, 1959; 8:49 a.m.1

I. The common stock, \$1.00 par value, of F. L. Jacobs Co. is registered on the New York Stock Exchange and admitted to unlisted trading privileges on the Detroit Stock Exchange, national securities exchanges, and

II. The Commission on February 11, 1959, issued its order and notice of hearing under section 19(a) (2) of the Securities Exchange Act of 1934 to determine at a hearing beginning March 16, 1959, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the cápital stock of F. L. Jacobs Co. on the New York Stock Exchange and Detroit Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations thereunder.

On February 11, 1959, the Commission issued its order summarily suspending trading of said securities on the exchanges pursuant to section 19(a) (4) of the Act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days ending February 20,

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the New York Stock Exchange and Detroit Stock Exchange and that such action is necessary and appropriate for the protection of investors: and

The Commission being of the further opinion that such suspension is necessary in order to prevent fraudulent. deceptive or manipulative acts or practices, trading in the stock of F. L. Jacobs Co. will be unlawful under section 15(c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule 240.15c2-2 (17 CFR 240.15c2-2) thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934 that trading in said security on the New York Stock Exchange and Detroit Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, February 21, 1959, to March 2, 1959, inclusive.

By the Commission.

ORVAL L. DUBOIS, [SEAL] Secretary.

8:49 a.m.]

[File No. 811-654]

SCIENCE'& NUCLEAR FUND, INC.

Order Summarily Suspending Trading Notice of Application for Order Declaring Company Has Ceased To Be an Investment Company

FEBRUARY 19, 1959.

Notice is hereby given that Science & Nuclear Fund, Inc. ("S. & N."), an openend, diversified, management investment company, registered under the Investment Company Act of 1940, has filed an application pursuant to section 8(f) of the Act for an order declaring that it has ceased to be an investment company under the Act.

The application represents, among other things, that on April 15, 1958, pursuant to an Agreement of Merger previously approved by shareholders, S. & N. was merged into and with Nucleonics, Chemistry & Electronics Shares, Inc. ("N.C.E."), a Delaware Corporation, registered under the Act as an open-end, diversified, management investment company. The stockholders of S. & N. received the shares of stock of N.C.E. of an asset value equal to the asset value of their shares of S. & N. on April 15, 1958, the valuation date under the Agreement of Merger. As a result of the merger, N.C.E. did not change its net asset value per share but issued an additional number of shares whose aggregate net asset value plus the aggregate of the cash in lieu of fractional shares equaled the net asset value of S. & N. on the valuation date and each former stockholder of S. & N. held shares of N.C.E. plus cash in lieu of fractional shares to an amount equal to the net asset value of his former holdings of S. & N. shares on the valuation date.

The separate existence of S. & N. ceased on April 16, 1958, in accordance with the filing and recording laws of Delaware and N.C.E., the surviving corporation, became possessed of all the rights, privileges, powers and franchises and became subject to all the restrictions, disabilities and duties of both the merging and surviving corporations.

Section 8(f) of the Act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 6, 1959, at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request a hearing be held, such request stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Secu1480

rities and Exchange Commission, Washington 25, D.C. At any time after said date, the application may be granted as provided in Rule 0-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SCAL]

ORVAL L. DUBOIS. Secretary.

[F.R. Doc. 59-1719; Filed, Feb. 26, 1959; 8:50 a.m.]

DEPARTMENT OF HEALTH. EDU-CATION. AND WELFARE

Public Health Service

INTERSTATE WATERS OF MISSOURI RIVER BETWEEN GAVINS POINT DAM, SOUTH DAKOTA, AND OMAHA, NEBRASKA

Public Hearing Concerning Pollution

Whereas, upon written request of the Iowa State Department of Health, the official water pollution control agency of the State of Iowa, the Surgeon General of the Public Health Service called a conference pursuant to section 8 of the Federal Water Pollution Control Act (70 Stat. 504, 33 U.S.C. 466g) with respect to the pollution of interstate waters of the Missouri River between Gavins Point Dam, South Dakota, and Omaha, Nebraska, and

Whereas, such conference was held on July 24, 1958, at Sioux City, Iowa, and

Whereas, the conferees representing the Official State water pollution control agencies of the States of Towa, Kansas, Missouri, Nebraska, and South Dakota, and the Surgeon General of the Public Health Service unanimously agreed:

1. That pollution of interstate waters subject to abatement under the Federal Water Pollution Control Act is occurring in the Missouri River caused by discharges from municipalities and industries between Gavins Point Dam, South Dakota and Omaha, Nebraska, and that such discharges cause or contribute to pollution of the Missouri River so as to endanger the health and welfare of persons in States other than that in which the discharges originate.

2. That the major sources of such pollution are untreated sewage and industrial wastes discharged by Sioux City, Iowa, and the industrial establishments located in the Sioux City, Iowa area which were identified at the conference

Tri-State Produce Co., 505 South Howard Street, Sloux City, Iowa.

Sanitary Rendering Co., Stock Yards Station,

1516 Bluff Road, Sloux City, Iowa. Meyer Packing Co., Chicago and Lafayette

Streets, Sioux City, Iowa.
Allied Laboratories, Inc., 1100 Bluff Road, Sioux City, Iowa.

Armour & Co., 902 South Chambers Street, Sioux City, Iowa.

Sioux City Dressed Beef Co., 1911 Warrington Road, Sloux City, Iowa.
Sloux City Stock Yards Co., 340 Livestock

Exchange Building, Sioux City, Iowa.

Raskin Packing Co., 1918 Jay Street, Sioux City, Iowa.

Smith Packing Co., Chicago and Prospect Streets, Sloux City, Iowa.

Swift & Co., 2001 Leech Avenue, Sioux City,

Iowa. Sioux City Dressed Pork Co., P.O. Box 25, Stock Yards Station, Sioux City, Iowa.

3. That the effects of such pollution are (1) deterioration of water quality for public water supply of Omaha, Nebraska, with associated enhancement of possible disease transmission: (2) increased concentrations of coliform and other organisms associated with human diseases which constitute a health hazard to commercial and recreational users of the river; (3) deterioration of water quality so as to interfere with navigation and create a health hazard to persons engaged in navigation, river dredging and other river improvement activities; (4) creation of sight and odor nuisances; and (5) deterioration of water quality so as to create conditions inimical to fish and aquatic life.

4. That the measures presently used for the disposal of sewage and industrial wastes from Sioux City and the aforesaid industrial establishments are not adequate to secure abatement of such pollution of the interstate waters of the Missouri River.

5. That the delays encountered in the abatement of such pollution are due to the lack of installation of adequate waste treatment facilities or other methods of control of pollution by the municipality and industries concerned.

6. That Sioux City, Iowa, and the aforesaid industrial establishments provide adequate treatment for such sewage and wastes and

(a) That by January 1, 1959, each industry in the Sioux City, Iowa, area notify that City as to the waste loading to be contributed by industry to the City municipal system and to serve as a basis of design for the municipal sewage treatment facility. If not, each such industry will be responsible for its own treatment and progress commensurate with the time schedule for remedial action set forth below for Sioux City;

(b) That by February 1, 1359, Sioux City, Iowa, arrange for completion of final plans and specifications for sewage treatment facilities; that such final plans be completed by July 1, 1959;

(c) That by April 1, 1959, Sioux City arrange for financing the construction of its sewage treatment facilities:

(d) That by September 1, 1959, Sioux City, Iowa, award a construction contract for Stage I construction, including the plant, and Sections B, D, F, G, and H, as these appear on page 28 of the "Preliminary Report, Sewage Treatment Facilities for Sioux City, Iowa, 1957" prepared by engineering consultants Buell and Winter, Sioux City, Iowa, and Howard R. Green Company, Cedar Rapids, Iowa, and that Sioux City, Iowa, award construction contracts for the remaining work by July 1, 1961;

(e) That all discharges of paunch manure, bedding, and related wastes, into the Missouri River or tributaries thereof by industries in Sioux City, Iowa, be stopped by September 1, 1958, and

Whereas, the Surgeon General of the Public Health Service on September 5,

1958, recommended to the Iowa Department of Health that it take the necessary remedial action under State law to secure compliance by Sioux City, Iowa, and the industrial establishements aforesaid with the recommendations of the conferees and

Whereas, I find that such remedial action has not been taken and that other action reasonably calculated to secure abatement of such pollution has not been taken by Sioux City, Iowa, and such industrial establishments,

Now therefore, pursuant to section 8 (e) of the Federal Water Pollution Control Act (70 Stat. 505, 33 U.S.C. 466g(e)), I hereby call a public hearing to begin at 9:00 a.m., c.s.t., on March 23, 1959, at the District Court Room, U.S. Post Office and Court House, Sixth and Pearl Streets, Sioux City, Iowa, before a Hearing Board composed of the following named persons:

Mr. Chester Wilson, Chairman.

Mr. H. Garland Hershey (representing the State of Iowa).

Mr. Freeman R. Johnson (representing the State of Missouri).

Mr. Walter Kurylo (representing the United States Department of Commerce).

Mr. Dwight Metzler (representing the State of Kansas).

Mr. Blucher Poole.

Mr. John S. Samson (representing the State of Nebraska).
Dr. G. J. Van Heuvelen (first alternate—Mr.

Harry R. Wood; second alternate—Mr. Charles E. Carl) (representing the State of South Dakota).

On the basis of the evidence presented at such hearing, the Board shall make findings as to whether Sioux City, Iowa, and the aforesaid industrial establishments are causing or contributing to the pollution of the interstate waters of the Missouri River between Gavins Point Dam, South Dakota, and Omaha, Nebraska, which endangers the health or welfare of persons in States other than Iowa, and whether, if it so finds, effective progress toward abatement thereof is being made. If said Board finds that such pollution is occurring and that effective progress toward abatement is not being made, said Board shall make its recommendations to me concerning the measures, if any, which it finds reasonable and equitable to secure abatement of such pollution.

Notice of such public hearing is hereby given to the following:

Iowa State Department of Health, State Office Building, Des Moines 19, Iowa, Missouri Water Pollution Board, Jefferson

City, Mo. Nebraska Department of Health, Mincoln 9, Nebr.

Kansas State Board of Health, Topeka, Kans, South Dakota Committee on Water Pollution, Pierre, S. Dak.

City of Sioux City, Iowa.

Tri-State Produce Co., 505 South Howard Street, Sioux City, Iowa.

Sanitary Rendering Co., Stock Yards Station, 1516 Bluff Road, Sioux City, Iowa.

Meyer Packing Co., Chicago and Lafayette Streets, Sioux City, Iowa.

Allied Laboratories, Inc., 1100 Bluff Road, Sioux City, Iowa.

Armour & Co., 902 South Chambers Street, Sioux City, Iowa.

Sioux City Dressed Beef Co., 1911 Warrington Road, Sioux City, Iowa.

Sioux City Stock Yards Co., 340 Livestock Exchange Building, Sioux City, Iowa. Raskin Packing Co., 1918 Jay Street, Sioux

City, Iowa. Smith Packing Co., Chicago and Prospect

Streets, Sioux City, Iowa. Swift & Co., 2001 Leech Avenue, Sioux City, Iowa.

Sioux City Dressed Pork Co., P.O. Box 25, Stock Yards Station, Sioux City, Iowa.

Dated: February 20, 1959.

Iseall Arthur S. Flemming,
Secretary of Health,
Education, and Welfare.

[F.R. Doc. 59-1702; Filed, Feb. 26, 1959; 8:47 a.m.]

LICENSED BIOLOGICAL PRODUCTS

Notice is hereby given that pursuant to section 351 to Public Health Service Act, as amended (42 U.S.C. 262), and regulations issued thereunder (42 CFR Part 73), the following establishment license and product license actions have

been taken from October 16, 1958, to January 15, 1959, inclusive.

These lists are supplementary to the lists of licensed establishments and products in effect on April 15, 1958, published in 23 F.R. 5512 on July 19, 1958, as amended by the lists of license actions published in 23 F.R. 6798 and 24 F.R. 113, on September 4, 1958, and January 6, 1959, respectively, covering the period from April 16, 1958, through October 15, 1958.

ESTABLISHMENT LICENSES ISSUED

Establishment	License No.	Date
Armour Pharmaceutical Co., division of Armour and Company of Chicago, Ill., Kankakee, Ill. Suburban Hospital Blood Bank, Bethesda, Md. Arlington Hospital Blood Bank, Arlington, Va. Syntex Chemical Co., Inc., New York, N.Y.	149 309 310 311	Oct. 21, 1958 Nov. 25, 1958 Nov. 28, 1958 Jan. 13, 1959

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PRODUCT LICENSES ISSUED

Product	Establishment	License No.	Date
Plasma Protein Fraction (Human)	Cutter Laboratories Blood Bank Foundation do Knickerbocker Blood Bank Suburban Hospital Blood Bank Arlineton Hospital Blood Bank Blood Bank Foundation Philadelphia Serum Exchange Hyland Laboratories Merck Sharp & Dohme do. Syntex Chemical Co., Inc	164 309 310 165 139 140 2	Oct. 2, 1958 Nov. 21, 1958 Do. Nov. 28, 1958 Do. 10, 1958 Do., Jan. 2, 1959 Do. Jan. 13, 1959

ESTABLISHMENT LICENSES REVOKED

Establishment	License No.	Date
The Armour Laboratories, Division of Armour and Company of Chicago Kan- kakee, Ill	149	Oct. 21,1958

PRODUCT LICENSES REVOKED

- Product	Establishment	Li- cense No.	Date
Fibrin Film	Armour Pharma- ceutical Co.	149	Nov. 21, 1958
Thrombin	do		

[SEAL] RODERICK MURRAY,
Director, Division of Biologics
Standards, National Institutes
of Health, Public Health
Service, U.S. Department of
Health, Education, and Welfare.

J. STEWART HUNTER,
Assistant to the Surgeon General for Information, Public
Health Service, U.S. Department of Health, Education,
and Welfare.

[F.R. Doc. 59-1731; Filed, Feb. 26, 1959; 8:51 a.m.]

No. 40-4

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12566, 12774; FCC 59-123]

SANFORD L. HIRSCHBERG ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Sanford L. Hirschberg and Gerald R. McGuire, Cohoes-Watervliet, New York, Docket No. 12566, File No. BP-11261; requesting 1300 kc, 1 kw, SH; W. Frank Short and H. Clay Esbenshade d/b as Fairview Broadcasters, Rensselaer, New York, Docket No. 12774, File No. BP-12209; requesting 1300 kc, 5 kw, DA-D; for construction permits for new standard broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 18th day of February 1959;

The Commission having under consideration the above-captioned applications; and

(It appearing, that, on July 30, 1958, the Hirschberg-McGuire application was designated for hearing; and

It further appearing, that the application of Fairview Broadcasters which was accepted for filing on July 22, 1958, pro-

poses an operation which involves mutually destructive interference with that of Hirschberg-McGuire; and

It further appearing, that, on September 4, 1958, Hirschberg-McGuire petitioned for dismissal of the Fairview Broadcasters' application, pursuant to § 1.106 of the Commission rules, on the ground that Exhibit 3 thereof, an equipment manufacturer's deferred credit commitment, was not in the application when it was verified; that, therefore, the application is not verified; that Fairview Broadcasters had no valid application before the Commission when it designated the Hirschberg-McGuire application for hearing; and

It further appearing, that, in an Opposition filed on September 18, 1958, Fairview Broadcasters contends that an applicant need not have before him at the time of execution of his application a written contract with an equipment manufacturer; and

It further appearing, that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated October 8, 1958, notified the above-captioned applicants that their proposals involve mutually destructive interference; and requested Fairview Broadcasters to state whether the Exhibit in question was before the applicant when the application was verified on July 21, 1958; and

It further appearing, that, in a reply filed on. November 7, 1958, Fairview Broadcasters stated, among other things, that "All information required in Form 301 was supplied and all required information was complete and before the undersigned [W. Frank Short] at time of signature"; that "Exhibit No. III which is an equipment list supplied by Ian equipment manufacturer] was not attached to the application at time of signature"; and two persons who had an option agreement to acquire collectively a 40 percent interest of W. Frank Short's 75 percent interest in Fairview Broadcasters had elected to be paid in cash instead; and

It further appearing, that Hirschberg-McGuire, in a letter filed on November 21, 1958, contend that the two persons who had an option to acquire an ownership interest in Fairview Broadcasters were parties to the application; that cancellation of their options effected a change of control of Fairview Broadcasters which, under § 1.354(h) of the Commission rules which was then in effect, constituted a new application, not timely filed for consolidation in the Hirschberg-McGuire hearing; and

It further appearing, that Fairview Broadcasters, in a reply and amendment filed on December 15, 1958, stated that the option agreements were executory only and never ripened into a bona fide ownership interest, and that accordingly the cancellation of these options does not amount to a change in ownership in the applicant so as to constitute a new application, and further stated that "in order to dispel any doubt as to whether Exhibit 3 is actually a part of the Fair-

1482 **NOTICES**

view application, an amendment so incorporating it is tendered simultaneously herewith and should be accepted. Johnston Broadcasting Company v. Federal Communications Commission, 4 Pike & Fischer RR 2138."; and that Fairview Broadcasters' application "is hereby amended so as to ratify as of this date all statements and exhibits attached to the subject application as now on file with the Commission, including of course, the deferred payment plan and equipment proposal from Gates Radio Company."

It further appearing, that, if the deficiency in the verification of Fairview Broadcasters' application had been called to the attention of the applicant when the application was accepted for filing, a corrective amendment could have been filed prior to the time the Hirschberg-McGuire application was designated for hearing, and that it would be consistent with the equities of the circumstances here involved for us to accept Fairview Broadcasters' nunc pro tunc amendment of December 15, 1958, In re Johnston Broadcasting Co., 5 Pike and Fischer RR 1320, 1323; that cancellation of the aforementioned option agreements did not effect a change in ownership of Fairview Broadcasters to require the assignment of a new file number pursuant to the provisions of § 1.354(h) of the Commission rules then in effect; and that, therefore, pursuant to the provisions of § 1.106 of the Commission rules, the instant application of Fairview Broadcasters should be consolidated in the hearing proceeding on the above-captioned anplication of Hirschberg-McGuire; and

It further appearing, that, in its abovereferenced petition of September 4, 1958, Hirschberg-McGuire also contend that the filing of Fairview Broadcasters' instant application is the result of activities which constitute an abuse of Commission process; that, in support thereof, it is stated that Austin E. Harkins filed for a new station at Kingston, New York on 1300 kilocycles, File No. BP-11257, which is mutually exclusive with the Hirschberg-McGuire proposal; that the Commission addressed a section 309(b) letter to said applicants on April 21, 1958: that Harkins secured two thirty day extensions to reply; that, on July 22, 1958, Harkins amended his Kingston proposal to 1170 kilocycles; that, on the same day, July 22, 1958, Fairview Broadcasters, in which Harkins held an option to acquire a 5 percent ownership interest, filed its instant application for 1300 kilocycles which is mutually exclusive with the Hirschberg-McGuire application; and that this activity was to impede Com-mission action on the Hirschberg-McGuire application; and

It further appearing that Fairview Broadcasters, in its Opposition of September 15, 1958, contend that Hirschberg-McGuire has not shown "how the Commission processes have been abused"; that, in substance, there was no engineering conflict when Harkins filed his 1300 kilocycles proposal for Kingston: that Harkins was also studying the possibilities of a station in Rensselaer; that 1300 kilocycles could be used in Rensselaer; that it was decided to amend the Kingston proposal from 1300 to 1170 kilocycles and await the result of the clear channel proceeding and to specify 1300 kilocycles in Rensselaer; and that no abuse of Commission process was intended; and

It further appearing that, except as indicated by the issues specified below. Fairview Broadcasters are legally, financially, and technically qualified to con-struct and operate their proposed station; but that, on the basis of the information before us, we are unable to conclude at this time whether the instant application of Fairview Broadcasters was filed in good faith:

It is ordered, That, pursuant to the provisions of section 309(b) of the Communications Act of 1934, as amended, the instant application of Fairview Broadcasters is designated for hearing in a consolidated proceeding with the instant application of Sanford L. Hirschberg and Gerald R. McGuire, Docket No. 12566, at a time and place to be specified in a subsequent order, upon the issues set forth below; and that this order supersedes the Commision's above-referenced order of July 30, 1958, herein with respect to issues only:

1. To determine the areas and populations which will receive primary service from each of the instant proposals and the availability of other primary service to such areas and populations.

2. To determine whether the proposal of Sanford L. Hirschberg and Gerald R. McGuire would cause objectionable interference to Station WRSA, Saratoga Springs, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof: the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether a grant of the Sanford L. Hirschberg and Gerald L. McGuire application would affect the flexibility of Stations WHAZ, Troy, New York, WPOW, New York, New York, and WEVD, New York, New York, to operate ment his application for renewal of his

upon in the existing share-time agreement, if mutually agreed upon in accordance with the provisions of §§ 3.74 and 3.77 of the Commission's rules.

4. To determine whether the instant application of Fairview Broadcasters was

filed in good faith.

5. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would better provide a fair, efficient and equitable distribution of radio service.

6. To determine in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the instant ap-

plications should be granted.

It is further ordered, That, to avail itself of the opportunity to be heard, Fairview Broadcasters, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issues: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: February 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,

Secretary.

[F.R. Doc. 59-1733; Filed, Feb. 26, 1959; 8:51 a.m.]

[Docket No. 12769; FCC 59-121]

STANLEY BLUMENTHAL

Order Designating Application for Hearing on Stated Issues

In the matter of Stanley Blumenthal, 215 Cozine Avenue, Brooklyn 7, New York; application for renewal of Radiotelegraph Second Class Operator License No. T2-2-1626; Docket No. 12769.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 18th day of February 1959;

The Commission having under consid-. eration the application of Stanley Blumenthal for renewal of his radiotelegraph second class operator license No. T2-2-1626; and

It appearing, that the Commission, in pursuance of its authority under subsection 303(1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified directed Stanley Blumenthal to suppleother hours than those presently agreed radiotelegraph operator license by fur-

¹In Johnston Broadcasting Company v. Federal Communications Commission, 4 Pike & Fischer RR 2138, the United States Court of Appeals for the District of Columbia Circuit stated that, where an engineering affidavit was dated after the verification of the application. "We think * * * that it is clear that the statutory requirement means that the contents of the application must be supported by the affidavit of the applicant"; that "the engineering data was required as part of the contents of the application"; that "The Commission had no authority to waive the requirement"; and that the "application did not meet the requirement." The Court also stated, "the rule appears to be that when a statute requires verification of a pleading, a court cannot act upon the pleading unverlified, but that an initial fallure to verify can be cured by later verification"; and that "This supplies the answer to the problem at bar." Upon remand of the case by the Court, the Commission held In re Johnston Broadcasting Co., 5 Pike and Fischer RR 1320, 1323, that "generally, where the rules of the controlling agency so permit, and where such an amendment would be consistent with the equities of the particular circumstances involved, any such defect in verification can be cured by a nunc pro tunc amendment."

nishing answers to certain specified questions, under oath; and

It further appearing, that Stanley Blumenthal, by letter dated October 14, 1958, refused to answer any of the questions he had been directed to answer; and

It further appearing, that in the light of his refusal to answer the questions, the Commission is unable to determine that Stanley Blumenthal possesses the requisite qualifications to be the holder of a radio operator license.

It is ordered, Pursuant to section 303 (1) of the Communications Act of 1934, as amended, that the above-entitled application is hereby designated for hearing in Washington, D.C., at a time and place and before an Examiner to be specified by subsequent order upon the following issues to which such hearing shall be confined:

(1) To determine whether Stanley Blumenthal failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether Stanley Blumenthal possesses the necessary qualifications to hold a radio operator license.

Released: February 24, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1734; Filed, Feb. 26, 1959; 8:51 a.m.]

[Docket Nos. 12726, 12727; FCC 59M-237]

BRINKLEY BROADCASTING CO. AND TRI-COUNTY BROADCASTING CO.

Order Scheduling Prehearing Conference

In re applications of Sam W. Anderson tr/as Brinkley Broadcasting Company, Brinkley, Arkansas, Docket No. 12726, File No. BP-11719; Mason W. Clifton tr/as Tri-County Broadcasting Company, Brinkley, Arkansas, Docket No. 12727, File, No. BP-11919; for construction permits.

It is ordered, This 18th day of February 1959, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of \$1.111 of the Commission's rules on March 5, 1959, at 10:00 o'clock a.m., in the Commission's offices, Washington, D.C.

Released: February 24, 1959.

Federal Communications Commission,

[SEAL] MARY JANE MORRIS, Secretary.

[F.R. Doc. 59-1735; Filed, Feb. 26, 1959; 8:51 a.m.]

[Docket Nos. 12735-12737; FCC 59M-236]

TEMPE BROADCASTING CO. ET AL. Order Scheduling Prehearing

Conference In re applications of W. H. Hansen,

In re applications of W. H. Hansen, Robert William Hansen, and Clyde J. Barnes, d/b as Tempe Broadcasting Company, Tempe, Arizona, Docket No. 12735, File No. BP-11283; Richard B. Gilbert, Tempe, Arizona, Docket No. 12736, File No. BP-11887; David V. Harman, Tempe, Arizona, Docket No. 12737, File No. BP-12388; for construction permits.

It is ordered, This 18th day of February 1959, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules on March 6, 1959, at 10:00 o'clock a.m. in the Commission's offices, Washington, D.C.

Released: February 24, 1959.

Federal Communications Commission,

[SEAL] MARY JANE MORRIS,

Secretary.

[F.R. Doc. 59-1736; Filed, Feb. 26, 1959; 8:51 a.m.]

[Docket Nos. 12770-12773; FCC 59-122]

MOYER RADIO ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Keith Moyer and Roger L. Moyer d/b as Moyer Radio, Providence, Rhode Island, Docket No. 12770, File No. BP-11140; Requests: 990 kc, 50 kw, DA-D; Golden Gate Corporation, Providence, Rhode Island, Docket No. 12771, File No. BP-11945; Requests: 990 kc, 50 kw, DA-D; Lorraine S. Salera, Arthur L. Movsovitz and Edson E. Ford d/b as Bristol County Broadcasting Co., Warren, Rhode Island, Docket No. 12772, File No. BP-11407; Requests: 990 kc, 500 w, Daytime; Radio Rhode Island, Inc., Providence, Rhode Island, Docket No. 12773, File No. BP-12383; Requests: 990 kc, 50 kw, DA-D; for construction permits for new standard broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 18th day of February 1959;

The Commission having under consideration the above-captioned applications; and

It appearing, that, except as indicated in the issues specified below, Moyer Radio, Radio Rhode Island, Inc., and Golden Gate Corporation are legally, financially, technically, and otherwise qualified to construct and operate their proposed stations, and Bristol County Broadcasting Co. is legally, technically, and otherwise qualified to operate its proposed station; but that the simultaneous operation of all proposals would result in mutually destructive interference; and

It further appearing, that, with respect to the proposal by Moyer Radio, the parameters specified for its directional antenna system will not produce the pattern proposed and a question, therefore, obtains as to whether the antenna system can be adjusted and maintained; and

It further appearing that the proposal of Bristol County Broadcasting Co. may not comply with the minimum efficiency requirements of § 3.189 of the Commission rules and a question obtains as to whether the proposed operation can be expected to achieve minimum radiation efficiency requirements for this class of station; that it is in contravention of the provisions of the North American Regional Broadcasting Agreement since the 0.005 mv/m contour overlaps the Canadian border, and therefore, pursuant to § 1.352 of the Commission rules, final action must be withheld pending ratification of said Agreement; that it also contravenes the provisions of the proposed Bilateral Agreement with Canada concerning the assignment of Class II stations on Class I-A channels (Docket 10453), and, therefore, final action must be withheld pending conclusion of the proceedings in Docket 10453; that insufficient quick assets are shown to establish that this applicant is financially qualified to construct and operate its proposed station; and

It furthering appearing that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the applicants were advised by letter dated December 10, 1958, of the aforementioned deficiencies; and

It further appearing that replies were filed by all the applicants except Moyer Radio; and

It further appearing that, after consideration of the foregoing, the Commission is of the opinion that a hearing on these applications is necessary; and

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the instant proposals and the availability of other primary service to such areas and populations.

2. To determine whether the directional antenna system of Moyer Radio can be adjusted and maintained as proposed.

3. To determine whether the proposal of Bristol County Broadcasting Co. can be expected to achieve minimum radiation efficiency for this class of station as required by § 3.189 of the Commission rules

4. To determine whether the 0.005 mv/m contour of Bristol County Broadcasting Co. overlaps the Canadian border in contravention of the provisions of the North American Regional Broadcasting Agreement.

5. To determine whether the proposal of Bristol County Broadcasting Co. con-

travenes the provisions of the proposed Bilateral Agreement between Canada and the United States with respect to assignment of Class II stations on Class I-A channels.

6. To determine whether Bristol County Broadcasting Co. is financially qualified to construct and operate its

proposed station.

7. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, whether the proposal for Warren, Rhode Island or one of the proposals for Providence, Rhode Island would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event that it is concluded pursuant to the foregoing issue that one of the proposals for Providence, Rhode Island should be favored, which of the proposals of Radio Rhode Island, Inc., Golden Gate Corporation, and Moyer Radio, would better serve the public interest, convenience and necessity in the light of the evidence adduced under the issues herein and the record made with respect to the significant differences between the three as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate the proposed standard broadcast station.

(b) The proposal of each with respect to the management and operation of the proposed station.

(c) The programming services proposed in each of the said applications.

It is further ordered, That, in the event of favorable action on the proposal of Bristol County Broadcasting Co., final action will be withheld pending conclusion of the proceedings in Docket 10453 and pursuant to § 1.352 of the Commission rules (pending ratification of NARBA); and

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues speci-

fied in the order; and

It is further ordered, That, the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition, properly filed by a party to the proceeding and upon sufficient allegation of fact in support, thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposal set forth in the application will be effectuated.

Released: February 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION, MARY JANE MORRIS,

[SEAL] MARY JANE MORRIS

Secretary.

[F.R. Doc. 59-1737; Filed, Feb. 26, 1959; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-10922]

P. R. RUTHERFORD ET AL. Notice of Continuance of Hearing

FEBRUARY 20, 1959.

Upon consideration of the motion filed February 18, 1959, by Counsel for P. R. Rutherford, et al. for continuance of the hearing now scheduled for February 27, 1959, in the above-designated matter;

The hearing now scheduled for February 27, 1959, is hereby continued to April 13, 1959, at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

[SEAL]

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 59-1688; Filed, Feb. 26, 1959; 8:45 a.m.]

[Docket No. G-14753]

SUNRAY MID-CONTINENT OIL CO. Order Fixing Date of Hearing

FEBRUARY 20, 1959.

Sunray Mid-Continent Oil Company (Applicant), a Delaware corporation with principal place of business at P.O. Box 2039, Tulsa, Oklahoma, filed an application for a certificate of public convenience and necessity in the abovecaptioned proceeding on March 24, 1958, pursuant to section 7(c) of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco) for resale. Applicant and Transco have entered into a 20 year agreement, dated February 12, 1958 and providing for the sale and delivery of natural gas to Transco at two delivery points; wherein Applicant has dedicated to the performance thereof all of the recoverable gas reserves, subject to certain reservations, produced from and attributable to its interests in all formations above 14,000 feet sub-sea underlying two leases located in the Pointe Au Fer Field. Terrebonne Parish, Louisiana. The contract provides for an initial base price of 21.5 cents per Mcf at 15.025 psia from the date of first delivery to July 1, 1962. Thereafter, this price escalates 2 cents per Mcf for each of the following three 4-year periods. From and after, July 1, 1974, the price is 29.5 cents per Mcf. The contract also provides that Applicant shall be reimbursed for existing gathering and severance taxes and for 34 of any increase therein.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Com-

mission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a formal hearing will be held on March 18, 1959 at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application.

(B) Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 14, 1959.

March 14, 1000

By the Commission (Commissioner Hussey dissenting).

[SEAL]

Joseph H. Gutride, Secretary.

[F.R. Doc. 59-1689; Filed, Feb. 26, 1959; 8:46 a.m.]

[Docket Nos. G-17095, G-17237]

MIDWEST NATURAL GAS CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Notice of Applications and Date of Hearing

FEBRUARY 20, 1959.

In the matters of Midwest Natural Gas Corporation, Docket No. G-17095; Texas Eastern Transmission Corporation, Docket No. G-17237.

Take notice that Midwest Natural Gas Corporation (Midwest), an Indiana corporation having its principal place of business at 711 Electric Building, In-dianapolis, Indiana, filed on November 26, 1059, in Poelest No. C. 17005 26, 1958, in Docket No. G-17095, an application for an order, pursuant to section 7(a) of the Natural Gas Act, directing Texas Eastern Transmission Corporation to establish physical connection of its facilities with those which Midwest proposes to construct, and to sell and deliver to Midwest its natural gas requirements for distribution and re-. sale in the communities of North Vernon, Vernon and Brownstown, Indiana, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Take further notice that Texas Eastern Transmission Corporation (Texas Eastern) a Delaware corporation having its principal place of business at the Texas Eastern Building, Shreveport, Louisiana, filed on December 11, 1958, in Docket No. G-17237, an application for a certificate of public convenience and necessity authorizing Texas Eastern to sell additional volumes totaling 6181 Mcf per day of firm natural gas on a long-term basis to nine existing general service customers, pursuant to section 7(c) of the Natural Gas Act, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

A more complete analysis of each of the above applications is set forth below: G-17095: Midwest proposes to construct and operate a total of 6.5 miles of 3- and 5-inch lateral transmission pipelines extending from two separate connections with Texas Eastern's 20-inch main line in Indiana, southeast to the communities of Brownstown and North Vernon, respectively. Vernon will be supplied through 0.6 of a mile of 4-inch pipeline extending from North Vernon. Midwest will also construct and operate distribution systems for each of the three communities to be served. The communities have a total population of approximately 7,322, and Midwest estimates the natural gas requirements of its proposed service area as follows:

	Requirements in Mcf		
Year of service	Peak Day	Annual	
1	1, 470 2, 230 2, 730 3, 430 3, 720	152, 546 215, 798 258, 605 315, 568 340, 883	

The gas will be used for domestic, commercial and industrial purposes.

Midwest estimates the initial capital cost of constructing its facilities at \$382,-200, with incremental additions during each of the first five years bringing the total investment to \$725,000. It proposes to finance its project through the issuance and sale of \$300,000 in common stock and \$400,000 in mortgage bonds, having already sold \$26,000 in common stock. A Chicago investment firm has indicated its desire to purchase the proposed bonds and place the common stock.

Midwest expects to charge a retail rate ranging from 60 cents per Mcf to \$1.00 per Mcf. Based on these rates, it estimates a return on the investment ranging from 0.92 percent in the first year to 6.76 percent in the fifth year of operation.

Reply of Texas Eastern: On January 2, 1959, Texas Eastern filed its answer to the application of Midwest, objecting to serving Midwest on the grounds that sufficient capacity is not available on its system for the requested service without impairing its service to its existing customers.

G-17237: Texas Eastern proposes to sell additional gas to the following customers:

	Volume in Mcf @ 14.73 psia		
Customer	Presently authorized	Pro- posed increase	Total
City of Cairo, Ill. City of Columbia, Ky City of Franklin, Tenn. Town of Fulton, Aliss City of Huntingburg, Ind. City of Lebanon, Tenn. City of Liberty, Ky Permian Oil and Gas Co. Southeastern Illinois Gas Co.	3, 672 700 1, 989 918 1, 428 2, 110 392 612 2, 856	1, 428 357 510 306 571 1, 020 255 1, 020	5, 100 1, 057 2, 499 1, 224 1, 999 3, 130 647 1, 632 3, 570
Total	14, 677	6, 181	20, 858

The proposed additional volumes will enable these customers to meet their

estimated peak day requirements through the year 1961. Each of the customers has expressed its need for and intent to take the gas if available. During the 1957-58 heating season four of these customers exceeded their maximum daily contract quantities and three others took more than 90 percent of their maximum daily quantities. They depend on Texas Eastern for their entire natural gas supply.

Texas Eastern states that its total authorized system capacity during the 1958-59 winter is 2,381,067 Mcf per day at 14.73 psia. It estimates its total maximum system obligations during the 1958-59 winter at 2,380,450 Mcf per day including winter service, storage service, fuel and losses and excluding the proposed deliveries in Docket No. G-17237. This leaves only 617 Mcf per day available. However, because of some excess compression south of its Danville, Kentucky, compressor station, Texas Eastern estimates it can deliver up to 2,448 Mcf per day additional to five of the small customers proposed to be served in that location in its subject application.

The remaining 3,733 Mcf per day of additional gas for the four other small customers north of Danville can be served, according to Texas Eastern, because 4,590 Mcf per day of winter service gas is to be delivered to Mississippi Valley Gas Company south of its Egypt, Mississippi, Compressor Station and such delivery can be made "without reducing the volumes of gas transportable to market." An equivalent volume is taken out of Oakford Storage Field in Pennsylvania to enable the company to meet its obligations east of Oakford. Thus, Texas Eastern has found a total of 7,655 Mcf per day of unallocated capacity available to serve the additional 6,181 Mcf per day to the nine customers involved herein.

No additional investment is proposed to effect the proposed deliveries. Texas Eastern estimates incremental gross revenues of \$266,729 per year will result from the proposed additional sales. It will execute and file new service agreements with the customers involved, after authorization of the subject proposal. The additional sales and deliveries will be made under Texas Eastern's filed SGS Rate Schedules.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 21, 1959 at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved and the issues presented by such applications.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure

(18 CFR 1.8 or 1.10) on or before March 20, 1959.

[SEAL]

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 59-1690; Filed, Feb. 26, 1959; 8:46 a.m.]

[Docket No. G-17820]

PHILLIPS PETROLEUM CO.

Order for Hearing, Suspending Proposed Change in Rate, and Allowing Changed Rate To Become Effective

FEBRUARY 20, 1959.

The Phillips Petroleum Company (Phillips), on January 21, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change is contained in the following designated filing:

Description: Notice of Change, undated. Purchaser: Texas Gas Transmission Corporation.

Rate schedule designation: Supplement No. 13 to Phillips' FPC Gas Rate Schedule No. 202.

Effective date: February 21, 1959 (effective date is the first day after expiration of statutory notice).

In support of the proposed increased rate and charge, Phillips has interpreted the above-designated rate schedule to provide for full reimbursement of the first 1 cent per Mcf of the Louisiana severance tax. This interpretation appears to be questionable and should be determined after hearing.

The changed rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Phillips be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge con-

¹ Rates are currently in effect subject to refund in Docket Nos. G-11991 and G-15721.

tained in Supplement No. 13 to Phillips' FPC Gas Rate Schedule No. 202.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until February 22, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.
(C) The rate, charge and classifica-

tion set forth in the above-designated supplement shall be effective on February 22, 1959: Provided, however, That within 20 days from the date of this order. Phillips shall execute and file with the Secretary of the Commission the until this proceeding has been disposed of agreement and undertaking described in or until the period of suspension has exparagraph (E) below.

(D) Phillips shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rate found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Phillips until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the changed rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid, and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if Phillips so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the changed rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) -As a condition of this order, within 20 days from the date of issuance thereof, Phillips shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of the Phillips Petroleum Company to Comply with the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Change

In conformity with the requirements of the order issued (date), in Docket No. G-17820, the Phillips Petroleum Company hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and for that purpose has/caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this _____ day of ____

Attest:

As a further condition of this order, Phillips shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved.

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Unless Phillips is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Phillips shall, in conformity with the terms and conditions of paragraph (D) of this order make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of pired, unless otherwise ordered by the Commission.

(H) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE, [SEAL] -Secretary.

[F.R. Doc. 59-1691; Filed, Feb. 26, 1959; 8:46 a.m.]

[Project No. 2191]

PACIFIC POWER & LIGHT CO. Notice of Application for License

FEBRUARY 19, 1959.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Power & Light Company of Portland, Oregon (Applicant), for license for a hydroelectric development on the Rush, Curly, Meadow and Big Creeks within Skamania County, Washington, in the region of Woodland, Kalama, Longview, Kelso, Vancouver and Camas in Washington, and Portland, Rainier and St. Helens in Oregon, affecting lands of the United States within the Gifford Pinchot National Forest.

The proposed project, designated in the application as the "Meadows Hydroelectric Project" consists of an initial development described as follows: (1) Big Creek Diversion, a low earth dike across Big Creek about 5 miles above its confluence with Lewis River, a spillway in the dike and an earth canal extending 5,600 feet from the dike to Meadow Creek, a tributary of Rush Creek; (2) Curly Creek Diversion, a 24-foot high overflow type rock-fill dam on Curly Creek approximately 3½ miles above its confluence with Lewis River, a conduit consisting of 3,400 feet of concrete pipe and 2,200 feet of earth canal extending from an intake structure in the dam to Rush Creek; (3) Rush Creek Diversion, a 50-foot high rock-fill dam with free overflow ogee spillway on Rush Creek about 2 miles above its confluence with Lewis River, a conduit consisting of 2,600 feet of concrete pipe and 3,200 feet of earth canal extending from an intake structure in the dam to the Lower Drop forebay; (4) Lower Drop Forebay, a forebay with usable regulating capacity of approximately 180 acre-feet between

elevations 2350 and 2335, respectively the maximum and minimum operating levels, formed by a 50-foot high (maximum section) earth embankment with intake instructure for the Lower Drop penstock and an overflow spillway located in the canal section just upstream from the forebay: (5) Lower Drop Penstock, a welded steel penstock extending from the forebay to the Lower Drop Powerhouse; (6) Lower Drop Powerhouse, an outdoor type powerhouse located at about elevation 1,300 on the east side of the proposed Muddy reservoir approximately 2 miles upstream from the proposed Muddy dam (both of the latter being parts of Project No. 2112, license for which has been applied for), such powerhouse to contain one generating unit with output rating of 25,000 kw, operation of which will be by remote control from the Merwin plant of Licensed Project No. 935, about 30 miles downstream; and (7) Transmission Line, a 69-kv transmission line to applicant's primary transmission system and facilities of the Northwest Power Pool. The ultimate scheme of development will add to the initial development the following features: an earth- and rock-fill dam about 210 feet high on Big Creek and an earth-fill dam about 40 feet high in Skookum Saddle, together forming a reservoir of approximately 85,000 acre-feet, which will flood out the initial Big Creek Diversion works; an earth-fill dam about 60 feet high on Meadow Creek; a pumping plant at the head of Meadow pool; a conduit leading from Meadow pool to Upper Drop forebay; a steel penstock from the forebay to the Upper Drop powerplant; a single 30,000 kw unit located on the Rush Creek Diversion dam pool; an additional conduit from Rush Creek pool to Lower Drop forebay; an additional steel penstock leading from Lower Drop forebay to a companion Lower Drop power plant of approximately 30,000 kw capacity.

Protests or petitions to intervene may ·be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 C.F.R. 1.8 or 1.10). The last day on which protests or petitions may be filed is April 7, 1959. The application is on file with the Commis-

sion for public inspection.

[SEAL] JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 59-1692; Filed, Feb. 26, 1959; 8:46 a.m.]

[Project No. 2256]

CONSOLIDATED WATER POWER CO.

Notice of Application for License FEBRUARY 19, 1959.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Consolidated Water Power Company, of Wisconsin Rapids, Wisconsin, for license for a constructed hydroelectric development, designated as Project No. 2256, situated on the Wisconsin River, navigable waters of the United States, in Wood County, Wisconsin.

The project consists of a concrete and masonry dam about 3,320 feet long composed of masonry and concrete gravity wall sections, gate sections, a powerhouse substructure section; a grinder building substructure section; an earth dike about 3,000 feet long butting into the dam along the right bank of the river; a reservoir with normal headwater at elevation 1012.31 feet (U.S.G.S. datum) extending about 3 miles upstream to the tailwater of the existing Biron Project (No. 2192); hydroelectric installation of 6,400 horsepower and hydromechanical installation of 9,000 horsepower; and appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day on which protests or petitions may be filed is April 6, 1959. The application is on file with the Commission for public inspection.

[SEAL]

Joseph H. Gutride, Secretary.

[F.R. Doc. 59-1693; Filed, Feb. 26, 1959; 8:46 a.m.]

[Docket No. G-17781]

CHAMPLIN OIL & REFINING CO.

Order for Hearing and Suspending Proposed Changes in Rates

FEBRUARY 19, 1959.

Champlin Oil & Refining Company (Champlin) on January 22, 1959, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Two Notices of Change, dated January 19, 1959.

Purchaser: Tennessee Gas Transmission

Company.

Rate schedule designation: Supplement No. 2 to Champlin's FPC Gas Rate Schedule No. 17. Supplement No. 2 to Champlin's FPC Gas Rate Schedule No. 21.

Effective date: February 22, 1959 (effective date is the first day after the expiration of the thirty days' notice).

In support of the proposed redetermined rate increases Champlin refers to the cost of service data submitted in Docket Nos. G-9277 and G-9280 and alleges such data justify the increased rates. Champlin in citing the higher prices paid for gas for initial services in the area states that the proposed prices are below current market prices in the area.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 2 to Champlin's FPC Gas Rate Schedule No. 17 and Suplement No. 2 to Champlin's FPC Gas Rate Schedule No. 21 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 2 to Champlin's FPC Gas Rate Schedule No. 17 and Supplement No. 2 to Champlin's FPC Gas Rate Schedule No. 21.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until July 22, 1959, and until such further time as each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL]

Joseph H. Gutride, Secretary.

[F.R. Doc. 59-1694; Filed, Feb. 26, 1959; 8:46 a.m.]

[Docket No. G-17785]

CARTER OIL CO.

Order for Hearing and Suspending Proposed Change in Rate

FEBRUARY 19, 1959.

The Carter Oil Company (Carter) on January 23, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated January 19, 1959.

Purchaser: Colorado Interstate Gas Company.

Rate schedule designation: Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 37.

Effective date: February 23, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the redetermined rate increase Carter states that the level of rate was agreed upon after arm's-length bargaining and that the proposed price is below currently contracted prices in the area.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 37 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 37.

(B) Pending the hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until July 23, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL]

Joseph H. Gutride, Secretary.

[F.R. Doc. 59-1695; Filed, Feb. 26, 1959; 8:46 a.m.]

[Docket No. G-11204]

SOUTHWEST NATURAL PRODUCTION CO. ET AL.

Notice of Application and Date of Hearing

FEBRUARY 19, 1959.

Take notice that Southwest Natural Production Company (Applicant), an independent producer with principal place of business in Shreveport, Louisiana, filed for itself, as Operator, on October 8, 1956, an application for public convenience and necessity, and filed a supplement thereto on November 13, 1956, pursuant to section 7(c) of the Natural Gas Act, authorizing the Applicant to sell natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to United Gas Pipe Line Company from the Sibley Field, Webster Parish, Louisiana, under a contract (as supplemented) dated January 19, 1950, between The Atlantic Refining Company (Atlantic) seller, and United Gas Pipe Line Company, buyer, which is on file as Southwestern Natural Production Company (Operator), et al., FPC Gas Rate Schedule No. 9. On August 5, 1957, Southwest filed with the Commission instruments executed October 31, 1956, whereby a portion of Atlantic's interest in the above contract was assigned to Southwest. These instruments are on file as Supplement Nos. 5 and 6 to Southwest's FPC Gas Rate Schedule No. 9.

The application lists Walter Duncan as

a nonsignatory coowner.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and

to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure. a hearing will be held on March 31, 1959 at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: Provided, however, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 19, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

Joseph H. Gutride, Secretary.

[F.R. Doc. 59-1697; Filed, Feb. 26, 1959; 8:46 a.m.]

[Docket Nos. G-2451, G-5475]

UNITED FUEL GAS CO.

Order Granting Oral Argument, Denying Intervention, Accepting Certain Briefs Already Filed and Permitting Certain Briefs Amicus Curiae To Be Filed

FEBRUARY 18, 1959.

On February 6, 1959, United Fuel Gas Company (United) filed a motion in these proceedings for permission to present oral argument before the Commission. In support of its motion United stated that important questions of fact

and law were raised by the Exceptions ¹ filed in these proceedings to the Decision and Order of the Presiding Examiner, issued December 17, 1958.

Also on February 6, 1959, the Independent Petroleum Association of America (IPA) and the Independent Natural Gas Association of America (INGA) filed petitions for leave to intervene for the purpose of filing memorandum briefs, which were simultaneously tendered. Each requests permission to participate if oral argument is granted in these proceedings. Alternatively, if intervention is not granted, INGA requests that its memorandum brief be accepted for filing as a Brief Amicus Curiae.

On February 2, 1959, and February 3, 1959, El Paso Natural Gas Company (El Paso) and Phillips Petroleum Company (Phillips), respectively, filed motions for leave to file in these proceedings briefs amicus curiae. In support of its motion Phillips states that similar issues to those in these proceedings are presently pending before the Presiding Examiner In the Matter of Phillips Petroleum Company, Docket Nos. G-1148, et al., and that the issues referred to in these proceedings may vitally affect the interests of Phillips in Docket Nos. G-1148, et al. El Paso, in support of its motion, states that the Presiding Examiner's opinion in these proceedings is in conflict with the opinion rendered by the Presiding Examiner In the Matter of El Paso Natural Gas Company, Docket No. G-4769, now pending before the Commission, and that, therefore, El Paso has an interest in these proceedings which is not adequately represented by existing parties. El Paso also requested permission to present oral argument.

The Commission finds:

(1) It is appropriate in carrying out the provisions of the Natural Gas Act to grant oral argument in these proceedings as hereinafter ordered, and it is further appropriate in carrying out the provisions of the Natural Gas Act to permit Phillips Petroleum Company and El Paso Natural Gas Company to file briefs amicus curiae, and to accept for filing, as briefs amicus curiae, the memorandum briefs filed by the Independent Petroleum Association of America and the Independent Natural Gas Association of America.

(2) In the present status of these proceedings it is inappropriate to permit the intervention requested by the Independent Petroleum Association of America and the Independent Natural Gas Association of America.

The Commission orders:

(A) Oral argument be held on March 17, 1959, at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C.,

concerning the issues and matters presented by the Exceptions to the Presiding Examiner's decision of December 17, 1958, in these proceedings.

(B) Each party to these proceedings desiring to participate in the oral argument shall notify the Secretary of the Commission, on or before March 6, 1959, of such intention, and of the amount of time requested for presentation of argument.

(C) The requests of Phillips Petroleum Company and El Paso Natural Gas Company for permission to file briefs amicus curiae in these proceedings are granted: *Provided, however*, That such briefs shall be filed not later than February 24, 1959.

(D) The memorandum briefs filed by the Independent Petroleum Association of America and the Independent Natural Gas Association of America hereby are accepted for filing as briefs amicus curiae.

(E) The petitions for leave to intervene filed by the Independent Petroleum Association of America and the Independent Natural Gas Association of America hereby are denied.

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 59-1696; Filed, Feb. 26, 1959; 8:46 a.m.]

[Docket No. G-14871 etc.]

TRANSWESTERN PIPELINE CO. ET AL. Order Amending Order Fixing Date of Hearing and Specifying Procedure

FEBRUARY 19, 1959.

In the matters of Transwestern Pipeline Company, Docket No. G-14871; Gulf Oil Corporation, Docket Nos. G-14925, G-14940, G-14950, G-16139, G-16141, G-16218; Pure Oil Company, Docket No. G-15040; Monsanto Chemical Company, Docket No. G-15318; Pan American Petroleum Corporation, Docket No. G-15389; Humble Oil Refining Company, Docket No. G-15714; Sun Oil Company, Docket No. G-15791; Union Oil Company of California, Docket No. G-15810; Warren Petroleum Company, Docket Nos. G-16030, G-16031; British American Oil Producing Company, Docket Nos. G-16091, G-16093, G-16103; Curtis R. Inman, Docket No. G-16106; Richardson & Bass et al., Docket No. G-16137; G. H. Vaughn, Jr., et al., Docket No. G–16195; Cities Service Gas Company, Docket No. G-16216; Superior Oil Company, Docket No. G-16261; Magnolia Petroleum Company, Docket Nos. G-16367, G-16368, G-16432; Hunt Oil Company, Docket No. G-16445.

On January 30, 1959, the Commission issued an order advancing the date of hearing in the above-entitled proceedings to March 10, 1959, and specifying the procedure to be followed at the reconvened hearing.

The recital of the procedural steps in paragraph (B) of the order was not intended to be exclusive, and consequently the order did not make explicit the right

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¹On February 6, 1959, exceptions were filed by United and jointly by the cities of Lexington, Kentucky; Georgetown, Kentucky; Winchester, Kentucky; Cynthiana, Kentucky; Paris, Kentucky; Irvine, Kentucky; Covington, Kentucky; Newport, Kentucky; Fort Thomas, Kentucky; Dayton, Kentucky; Bellevue, Kentucky; Catlettsburg, Kentucky; Ravenna, Kentucky; Mount Sterling, Kentucky; Fort Mitchell, Kentucky; Ashland, Kentucky.

as they may desire to present.

The Commission finds: In order to avoid any ambiguity, the order should be amended by spelling out the right of any intervener to present direct evidence.

The Commission orders: At the end of paragraph (B) of the Commission's order of January 30, 1959, in the aboveentitled proceedings, a sentence should be added as follows: "Following the aforesaid cross-examination of Staff's witnesses any intervener may present such evidence as it desires to present which is relevant to the hearing.'

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 59-1698; Filed, Feb. 26, 1959; 8:47 a.m.]

[Docket No. 16362 etc.]

SLICK OIL CORP. ET AL.

Notice of Severance and Continuance

FEBRUARY 19, 1959.

In the matters of Slick Oil Corporation (operator) et al., Docket Nos. G-16362 et al.; P. O. Burgy Drilling & Producing Company, Docket No. G-16373.

Notice is hereby given that the application filed by P. O. Burgy Drilling & Producing Company in Docket No. G-16373 in the above-entitled proceedings and scheduled for hearing to be held on March' 19, 1959, at 9:30 a.m., e.s.t., is hereby severed therefrom and continued for hearing at a subsequent date, to be set by further notice.

[SEAL] JOSEPH H. GUTRIDE, Secretary.

fF.R. Doc. 59-1699; Filed, Feb. 26, 1959; 8:47 a.m.]

[Docket No. G-17392]

TENNESSEE GAS TRANSMISSION CO. AND ALGONQUIN GAS TRANSMIS-SION CO.

Notice of Application and Date of Hearing

FEBRUARY 19, 1959.

Take notice that on December 29, 1958, Tennessee Gas Transmission Company (Tennessee) and Algonquin Gas Transmission Company (Algonquin) filed in Docket No. G-17392 a joint application, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the exchange of natural gas between them; the replacement by Tennessee of approximately 1.1 miles of 3inch lateral pipeline with 6-inch pipeline; and the construction and operation by Tennessee of a tap connection with Algonquin to effect the exchange, all as

No. 40---

of interveners to present such evidence more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicants state that they entered into a gas exchange agreement, dated September 15, 1958, under which Algonquin will deliver to Tennessee for sale to The Housatonic Public Service Company the latter's gas requirements for resale in the Wallingford, Connecticut, area. Delivery will be made at the proposed point of interconnection of Algonquin's existing 10-inch lateral line (extending from its 26-inch Connecticut main line to New Haven) and Tennessee's existing 3-inch Wallingford lateral about 1.1 miles west of Wallingford. Tennessee proposes simultaneously to return to Algonquin an equivalent number of Btu's at several existing points of interconnection between the two companies in New Jersey, Connecticut, and Massachusetts, at their mutual convenience.

The subject proposal will enable Tennessee to serve more satisfactorily its authorized contractual obligation to Housatonic in the Wallingford area. The estimated total cost of constructing the proposed facilities, including overhead and contingencies, is \$62,000, to be financed from the general funds of Tennessee. No deliveries are proposed beyond those previously authorized by the Commission.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 19, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: Provided, however, That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 13, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 59-1701; Filed, Feb. 26, 1959; 8:47 a.m.]

[Docket No. G-17389]

EL PASO NATURAL GAS CO.

Notice of Application and Date of Hearing

FEBRUARY 19, 1959.

Take notice that El Paso Natural Gas Company (Applicant), a Delaware corporation, with principal place of business in the El Paso Natural Gas Building, El Paso, Texas, filed in Docket No. G-17389 on December 24, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7(e) of the Natural Gas Act. authorizing Applicant to construct and operate facilities as hereinafter de-scribed, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate approximately 17.3 miles of 41/2 inch lateral pipeline to extend easterly from a point of connection on Appličant's existing 20-inch San Juan-Maricopa pipeline to a proposed meter station near Clarkdale, all in Yavapai County, Arizona. Applicant represents that the proposed pipeline and appurtenant facilities are required to enable Applicant to sell and deliver natural gas to Southern Union Gas Company (Southern Union) for resale in the communities of Clarkdale and Cottonwood. Arizona, and for resale to the Riverside Cement Company near Clarkdale.

Southern Union's estimated annual and peak day requirements for the proposed service are as follows:

	Volume—Mcf at 14.73 psia		
	1st year	2d year	3d year
Annual requirements Peak day requirements.	747, 000 4, 870	1, 650, 000 5, 100	1, 675, 000 5, 250

Applicant estimates the cost of the facilities proposed including overhead and contingencies to be \$295,000. The proposed project will be financed from current working funds or by making short term bank loans.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commision by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 31, 1959 at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: Provided, however, That the Commission may, after a non-contested hearing, dispose of the proceeding pur1490

NOTICES

suant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 19, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

Joseph H. Gutride, Secretary.

[FR. Doc. 59-1700; Filed, Feb. 26, 1959; 8:47 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

J. P. VAN DER MEULEN AND

S. DIJK

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

All right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 17658 (16 Fed. Reg. 3683, April 28, 1951) in and to the securities described below.

J. P. van der Meulen, Heemstede, Holland; Claim No. 66966; Cities Service Company 5/69, Debenture No. 45138, in the principal amount of \$1,000.

Miss S. Dijk, Arnhem, Holland; Claim No. 66967; Cities Service Company 5/69, Debenture No. 31, in the principal amount of \$1,000. Vesting Order No. 17658.

Executed at Washington, D.C., on February 19, 1959.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1720; Filed, Feb. 26, 1959; 8:50 a.m.]

BARBARA MERTON

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date

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of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Miss Barbara Merton, Im Gabelacker 8, Heidelberg, Germany; Claim No. 63607; \$115.82 in the Treasury of the United States. Vesting Order No. 5058.

Executed at Washington, D.C., on February 19, 1959.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1721; Filed, Feb. 26, 1959; 8:50 a.m.]

FABRIZIO CIANO ET AL.

Notice of Intention To Return Vested, Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting—from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Fabrizio Ciano, \$10,380.55 in the Treasury of the United States; Raimonda Ciano, \$10,-380.55 in the Treasury of the United States; Marzio Ciano, \$10,380.55 in the Treasury of the United States; Rome, Italy.

Claim No. 60722. Vesting Order No. 18235.

Executed at Washington, D.C., on February 20, 1959.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,

Assistant Attorney General,

Director, Office of Alien Property.

[F.R. Doc. 59-1722; Filed, Feb. 26, 1959; 8:50 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

STANLEY RUTTENBERG

Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of statement, published September 10, 1958 (23 F.R. 7016).

Dated: February 1, 1959.

STANLEY RUTTENBERG.

[F.R. Doc. 59-1685; Filed, Feb. 26, 1959; 8:45 a.m.]

PHILIP N. POWERS

Appointee's Statement of Changes in Business' Interests

The following statement lists the names of concerns required by subsection 710(b) (6) of the Defense Production Act of 1950, as amended.

Green Mountain Uranium (deletion). Northspan Uranium (deletion). Sabre Pinon: Prestole Corp. (deletion).

Firth Sterling Co. Internuclear Co. Midwest Piping. Trans World Airlines.

This amends statement published September 10, 1958 (23 F.R. 7015).

Dated: February 1, 1959.

PHILIP N. POWERS.

[F.R. Doc. 59-1686; Filed, Feb. 26, 1959; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 24, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

LONG-AND-SHORT HAUL

FSA No. 35254: Potash—Longhorn, Tex., to northern and eastern points. Filed by Southwestern Freight Bureau, Agent (No. B-7489), for interested rail carriers. Rates on potassium (potash), carbonate of crude, carloads from Longhorn, Tex., to specified points in Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

Grounds for relief: Market competi-

- Tariff: Supplement 554 to Southwestern Freight Bureau tariff I.C.C. 4139.

FSA No. 35255: Woodpulp—Naheola, Ala., to official territory. Filed by O. W. South, Jr., Agent (No. A3774), for interested rail carriers. Rates on woodpulp, not powdered, carloads from Naheola, Ala., to specified points in official and Illinois territories.

Grounds for relief: Short-line distance formula.

Tariff: Supplement 66 to Southern Freight Association tariff I.C.C. 1555.

FSA No. 35256: Tin or terne plate—Pittsburgh, Pa., district points to Missouri River points. Filed by O. E. Schultz, Agent (ER No. 2483), for interested rail carriers. Rates on tin or terne plate and tin mill black plate, carloads from Aliquippa, Pa., Niles, Ohio, Weirton, W. Va., and other specified points in Pennsylvania and Ohio to Kansas City and St. Joseph, Mo., Nebraska City and Omaha, Nebr.

Grounds for relief: Barge and market competition.

Tariff: Supplement 16 to Trunk Line-Central Territory Railroads Tariff Bureau tariff I.C.C. C-30.

FSA No. 35257: Substituted Service—

C. & N.W Ry., for Midwest Haulers, Inc. Filed by Midwest Haulers, Inc., Agent (No. 11), for the Chicago and North

Western Railway Company, and interested motor carriers. Rates on property loaded in highway trailers and trans-ported on railroad flatcars between Chicago, Ill., and St. Paul, Minn., on traffic originating at or destined to points on motor carriers beyond the named points. Grounds for relief: Motor-truck com-

petition.

Tariff: Supplement 36 to Midwest Haulers, Inc., tariff MF-I.C.C. 21.

By the Commission.

[SEAL]

HAROLD D. McCoy,

[F.R. Doc. 59-1725; Filed, Feb. 26, 1959; 8:50 a.m.]

CUMULATIVE CODIFICATION GUIDE—FEBRUARY

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during February. Proposed rules, as opposed to final actions, are identified as such.

3 CFR Page Proclamations: 7 CFR—Continued Page 969 1457 601 942, 1079, 1285 602 3272 843 3272 969 970 940 608 942, 1079, 1305 602 3273 843 3274 989 1408 609 970, 1305 609 1079, 1364 609 3275 937 1104 1304 1304 1304 1304 1304 1304 1375 1375 1375 1375 1375 1376 1	1287 1342 1370 1424 1122 1290 900 1130
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3273 843 989 1408 609 1079, 1364 3274 845 1003 1175 Proposed rules: 244 2275 937 1104 1304 1304 1304 1304 2375 843 1003 1175 1304 1375 1375 1375 1375 1375 1375 1375 1375 1376	1424 1122 1290 900 1130
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Executive orders: Feb. 26, 1852	1122 1290 900 1130
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325	1345
6 CFR Proposed rules: 19 CFR	
919	1153
10845, 1235 331723, 1077 9 CFR	1131
3421408 731021	946
365	
446152, 1235 94940 81	760
4641237 1511090 82	1153
4821408 Proposed rules: Proposed rules:	
485	1419
5191409 2011473 18	1160
TO CITY	4455
51 961 3 726 1 726	1157
521087, 1288 301089 222	1247
581363	
301	1157
519 1301	1157
722 1405 14 CFR 21 CFR	
723 1121 3 967	1177
128 726, 756 6	
997 18	761
726, 21 1021 29	762
756, 939, 965, 1147, 1149, 1343 234	1460
935 1409 121	1095
956	884
1237 302 1152 141d	884
940 1303 405–620 1121 146	1096
551 1341 146a	, 967
939, 1151, 1343, 1407 570 1079 146c	967
955940 600941, 1281, 1304 146d	884

FEDERAL REGISTER

Page

21 CFR—Continued Page	32 CFR—Continued Pag	9 43 CFR—Continued Page
146e 1177	789	
Proposed rules:	87 89	
9900	10 89	1
25 1216 27 1318	1189	1
120 1028, 1160, 1290	1589	
121 1028	1689	
130 1474	- 1	2 1783 971
301–306 851	60120	
22 CFR	61128 66128	
201 1306	141a141	
24 CFR	155 136	
200 1460	561 76	3 1789 1158
25 CFR	578 96	
25 CFR 131765	864141	
152178		
Proposed rules:	169073	
46 1158	171294	
163 1218	32A CFR	17961414
173948		1797 1414
221 976, 977, 1340	NSA (Ch. XVIII): OPR-6120	1798 1415
242 1466		,
26 (1939) CFR	33 CFR	18001415
Proposed rules:	2031131, 146	<u> </u>
29 9'6		1 1000
39 975, 146	210 124 Proposed rules:	46 CFR
26 (1954) CFR	401131	5 298 1464
1 967, 1178, 1206, 130'	1 25 CED	
170 1413	' .	, 47 CFR
179120		1410
Proposed rules:	5 146	2 2 2 947, 972, 1417
1 1253, 1420, 142		2 4
44113	19 146	4 10
301 142	30 146	4 11 765
29 CFR	37146	² 1 12 765
101 1090	51146 52146	9 10 100, 901, 1214
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530728		Proposed rules:
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605720		5 979
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30 CFR	41 CFR	174908
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	301115	8 Proposed rules:
31 CFR	12 CED	193 909
10 115	24490	194 1377
32 CFR	295113	T I EO CED
1 88		17 975, 1346, 1464, 1465
288		
3 88	Public land orders:	1751357
5 88		
6 88	1422 109	7 33 1347